

## City of Gloucester GLOUCESTER, MA City Council

10 DEC - Q AM 9: 52

CITY HALL • GLOUCESTER • MASSACHUSETTS • 01930 Telephone 508-281-9722 Fax 508-281-8472

CITY COUNCIL STANDING COMMITTEE

Planning & Development Committee
Wednesday, December 15, 2010 – 6:00 p.m.
Venue: Kyrouz Auditorium – City Hall

#### **AGENDA**

#### 1. Continued Business:

- A) SCP2010-001: 79-99 Essex Avenue, Section 3.1.6(b) height excess 35 feet, Section 3.2.6 lot area per two guests (Cont d from April 2010)
- B) SCP2010-016: New Way Lane #50, GZO Sec. 5.13 PWSF (Cont'd from 12/01/10)
- C) Letter from Attorney Adam J. Costa re: Extension of Special Permit under the Permit Extension Act of 2010 re: 201, 205 and 253 Main Street (a.k.a. Main Street Plaza) (Cont'd from meeting of December 1, 2010). For referral back to City Council
- 2. Correspondence from Deputy Chief Aiello re: revocation of tank licenses for facility formerly Known as Bickford's Marina
- 3. Reapplication for License of Flammable and Combustible Liquids, Flammable Gases and Solids Re: 54 Great Republic Drive
- 4. Request from YuKan Sports LEC to hold One Mile Road Race on April 9, 2011
- 5. Double Poles Reporting Policy: A discussion

#### COMMITTEE

Councilor Joseph Ciolino, Chair Councilor Robert Whynott, Vice Chair Councilor Greg Verga

<u>Committee members - Please bring relevant documentation</u>
Back-up and Supporting Documentation all on file at the City Clerk's Office, City Hall

CC: Mayor Kirk
Jim Duggan, CAO
Suzanne Egan, City Solicitor
Gregg Cademartori, Planning Director
Deputy Chief Steve Aiello
Charles Mahoney, Electrical Inspector



#### CITY CLERK GLOUCESTER, MA

10 DEC -9 AM 9: 09



#### LETTER OF TRANSMITTAL

| TO: | Gloucester City Council         | DATE:  | December 8, 2010 |
|-----|---------------------------------|--------|------------------|
|     | c/o Gloucester City Clerk       | JOB NO | ): 5283          |
|     | 9 Dale Avenue                   | RE:    | 99A Essex Avenue |
|     | Gloucester, Massachusetts 01930 |        | Gloucester, MA   |
|     |                                 | VIA:   | HAND DELIVERY    |

We are sending you the following items:

| Copies | Date     | Description   |
|--------|----------|---|
| 5 Sets | 8/23/10  | Site Development Plan (To Accompany a Notice of Intent and    |
|        |          | Major Project Special Permit)-Sheets 1-12, Revised 12/08/10   |
| 5 Sets | 12/08/10 | Site Planting Plan Set, 2 Sheets                              |
| 5      | 12/07/10 | Exterior Elevations, Sheet A-301 (prepared by Bounds &        |
|        | ·        | Gillespie Architects, PLLC)                                   |
| 5      | 8/09/10  | Site Photometric Plan, Sheet E-101 (prepared by Bounds &      |
|        |          | Gillespie Architects, PLLC)                                   |
| 5      | 8/12/10  | Proposed Riverfront Area Restoration & Planting Plan, Revised |
|        |          | 9/3/10 (prepared by DeRosa Environmental Consulting, Inc)     |

Remarks: Updated Hampton Inn plans for P&D.

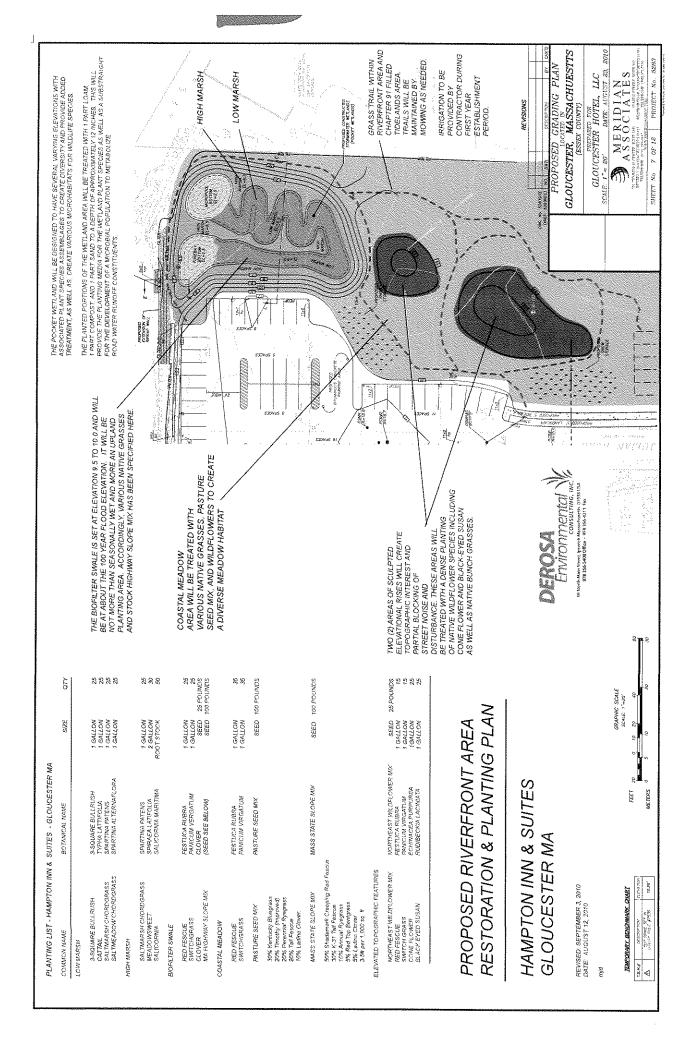
Copy To: Ralph Pino (1 Copy)

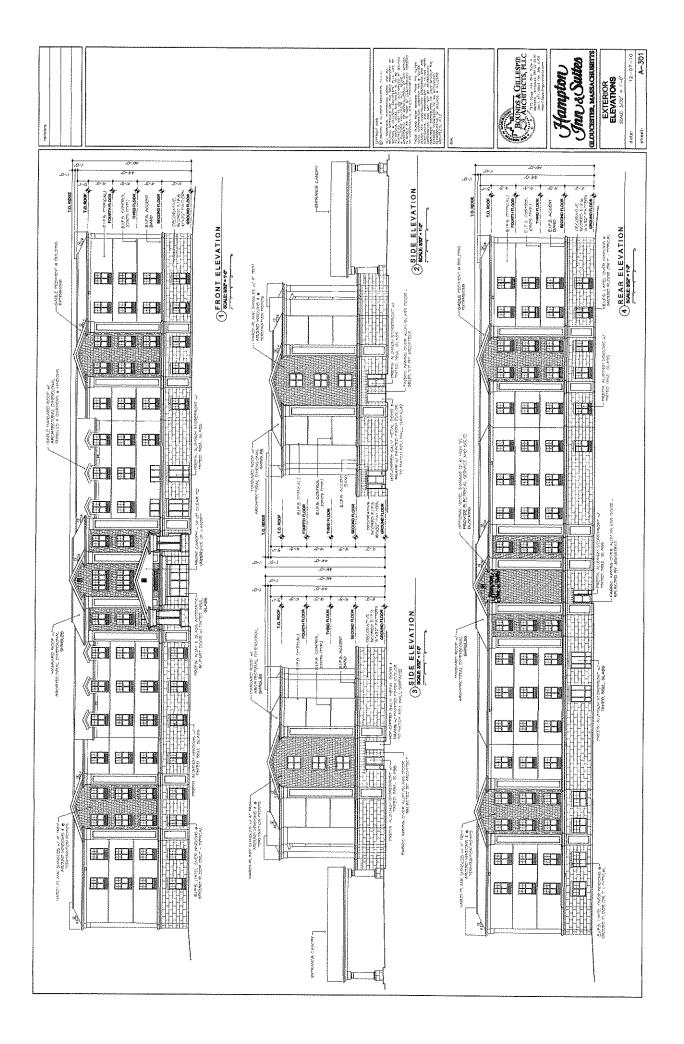
Jim Padgett (2 Copies)

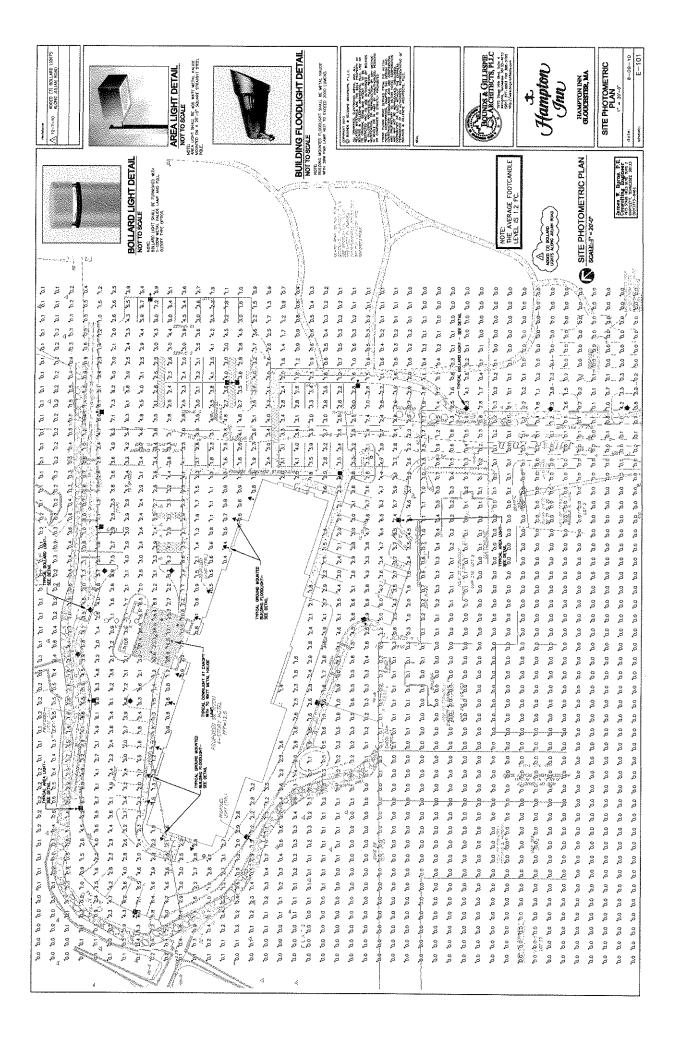
Signed: Charles E. Wear, III (eew)

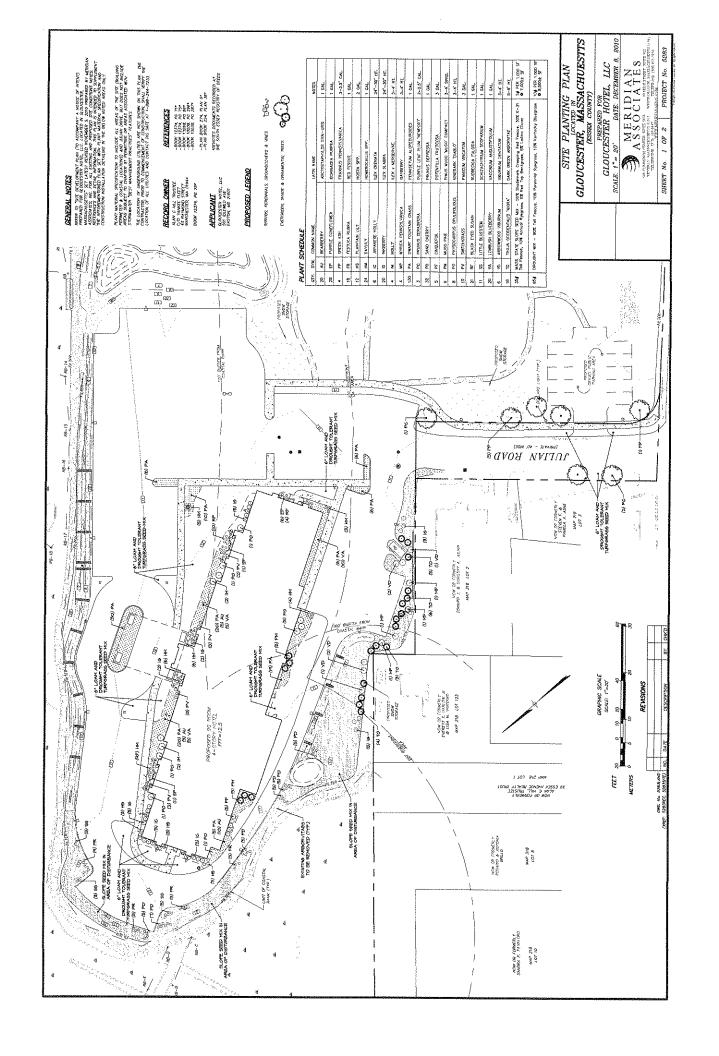
If enclosures are not as noted, kindly notify us at once.











# REES, SHRUBS, AND GROUNDCOVER NOTES.

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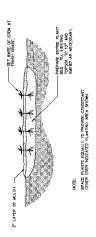
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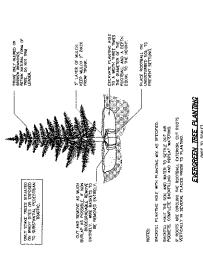
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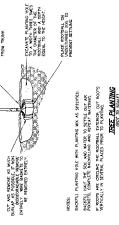
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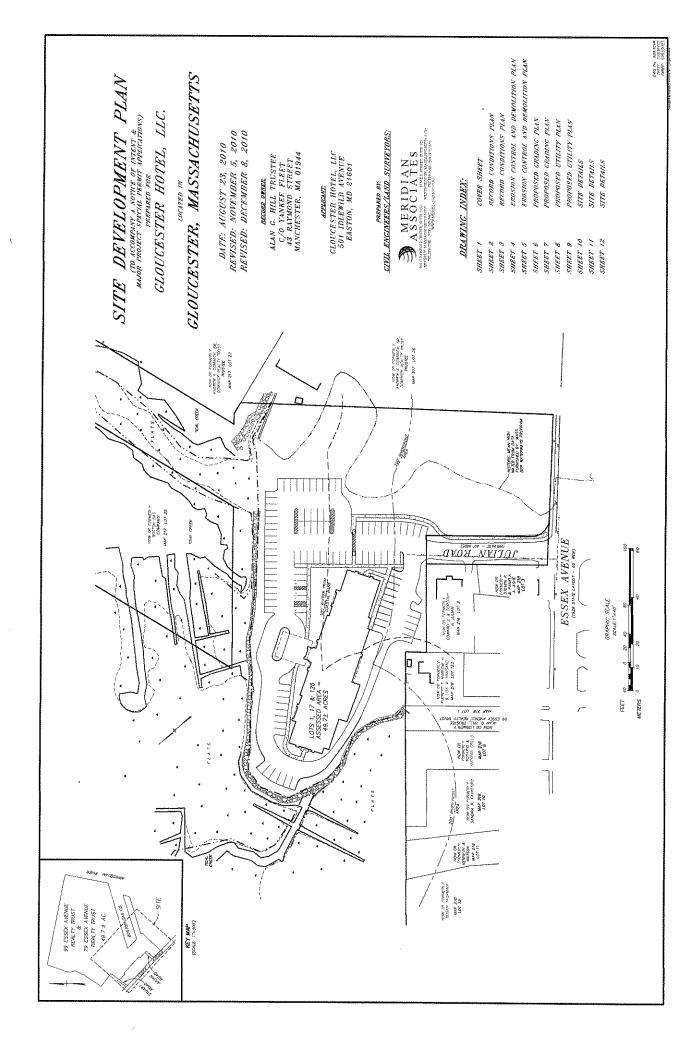


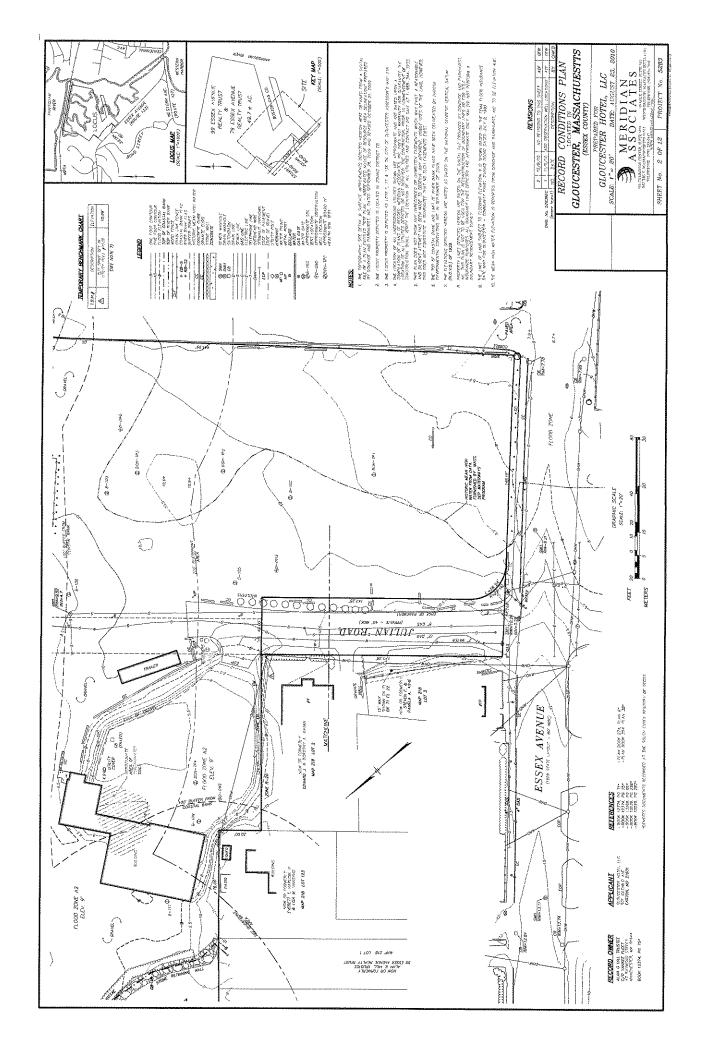


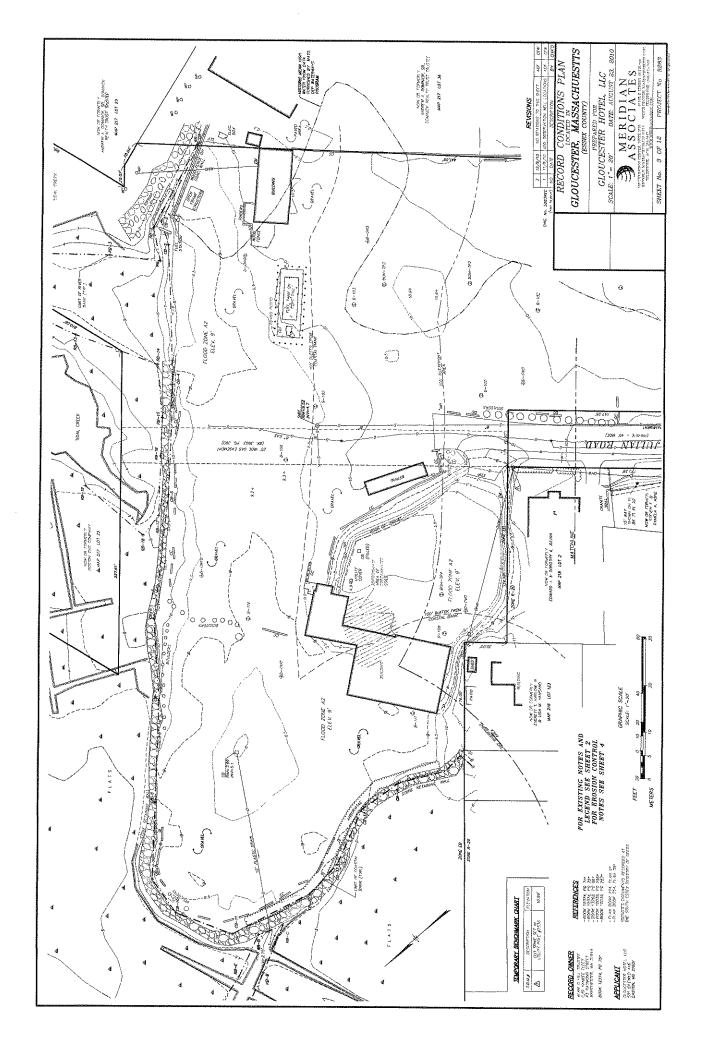


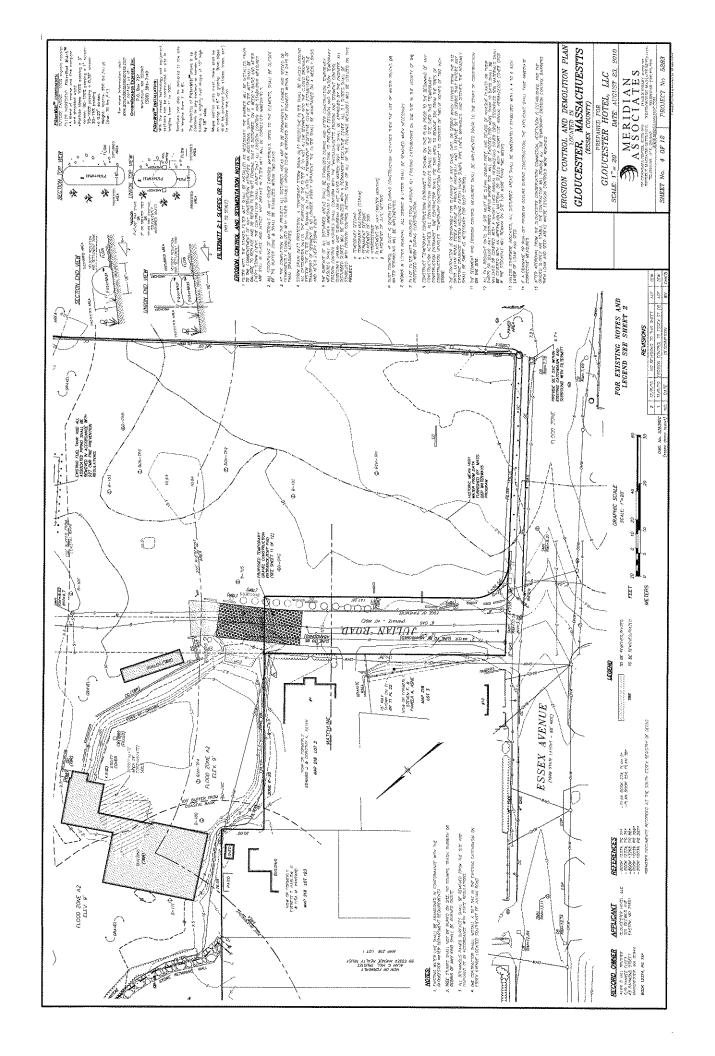
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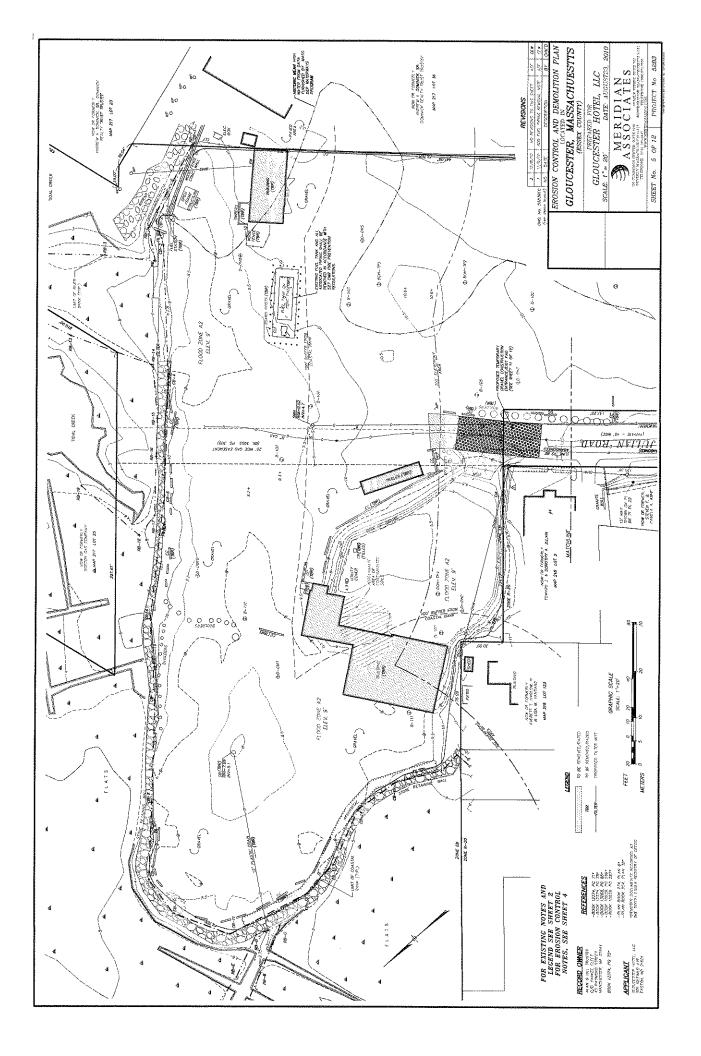
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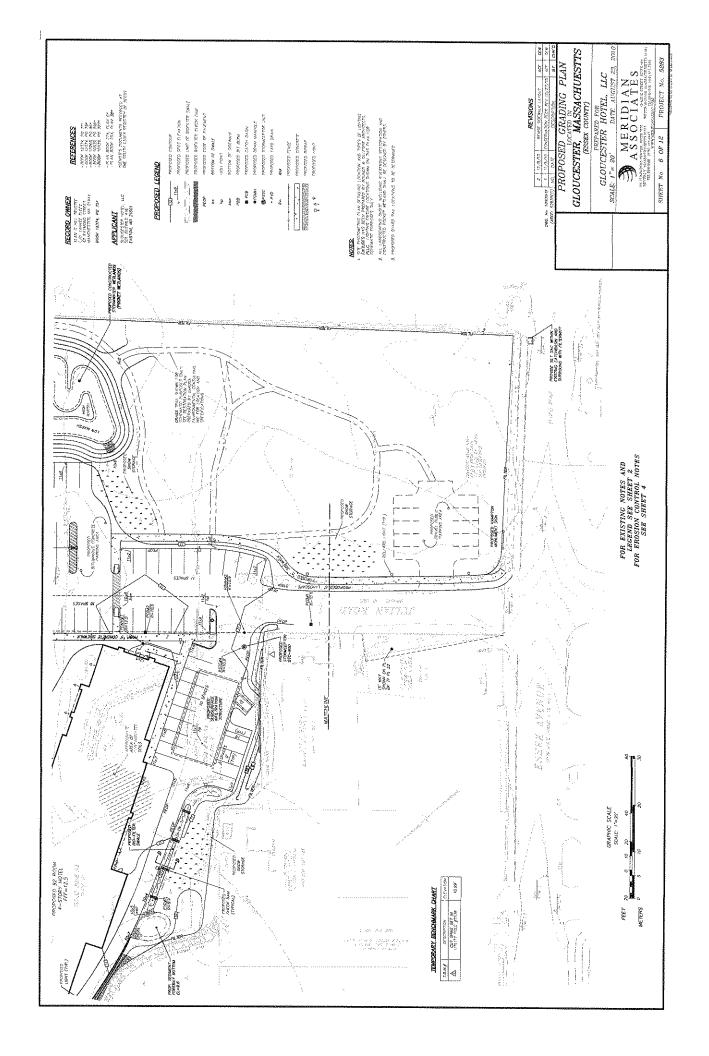


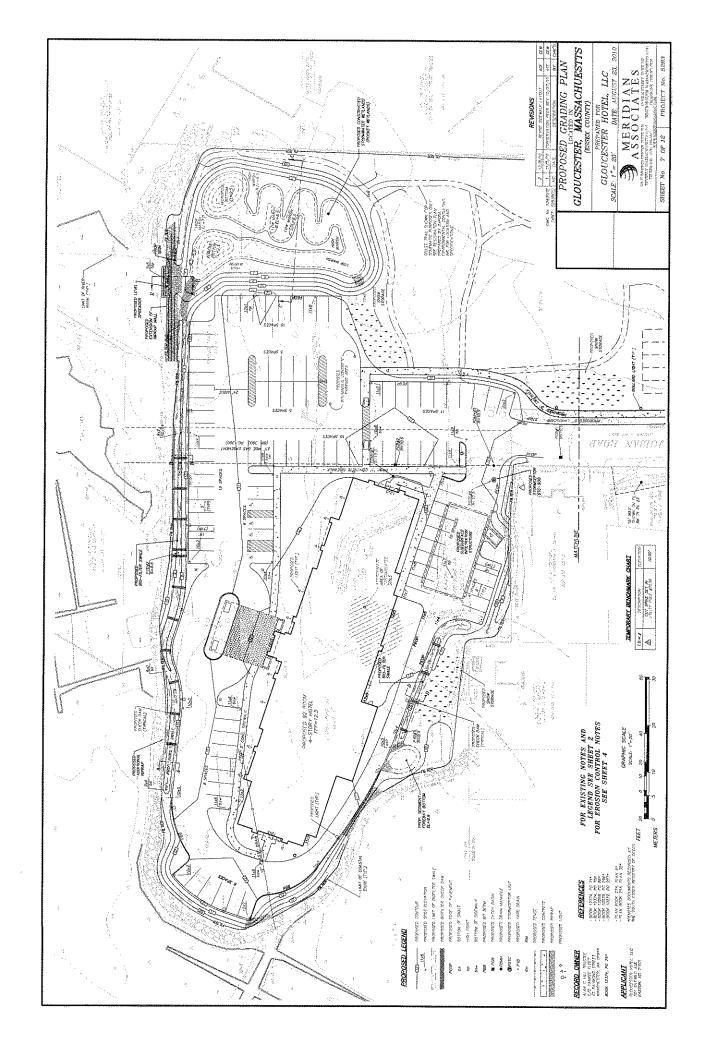


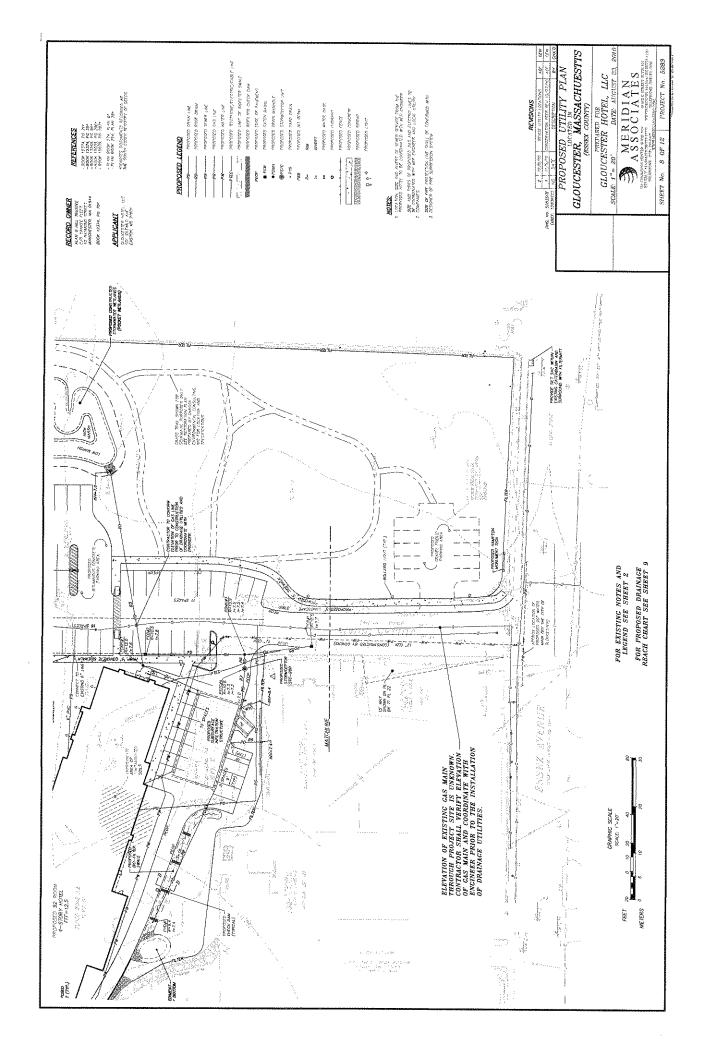


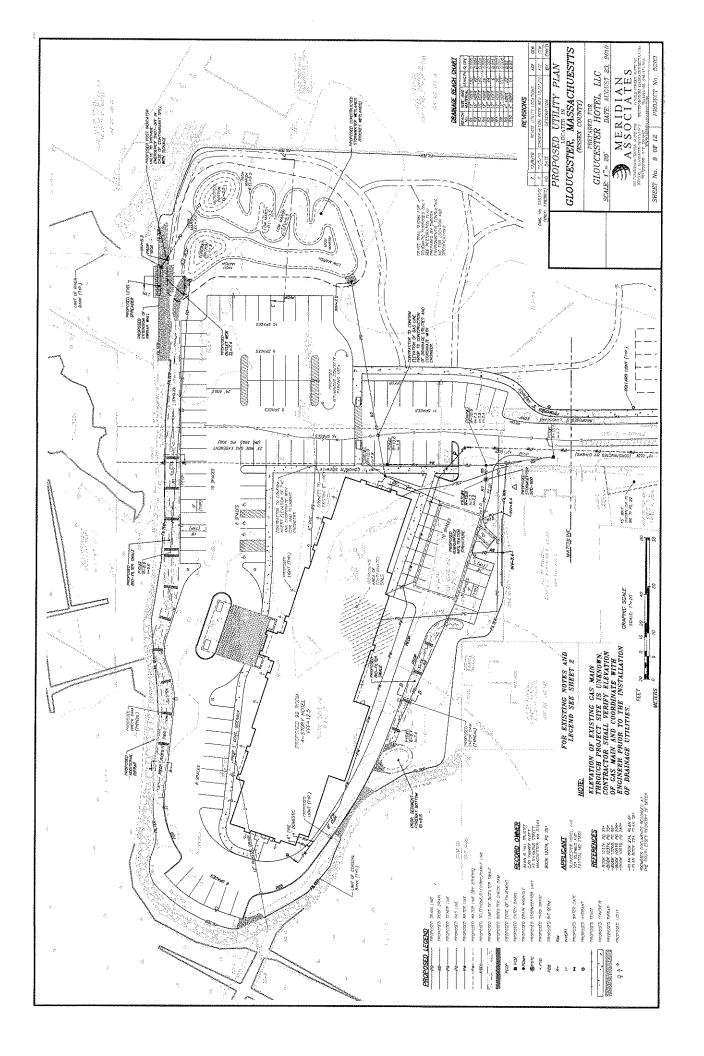


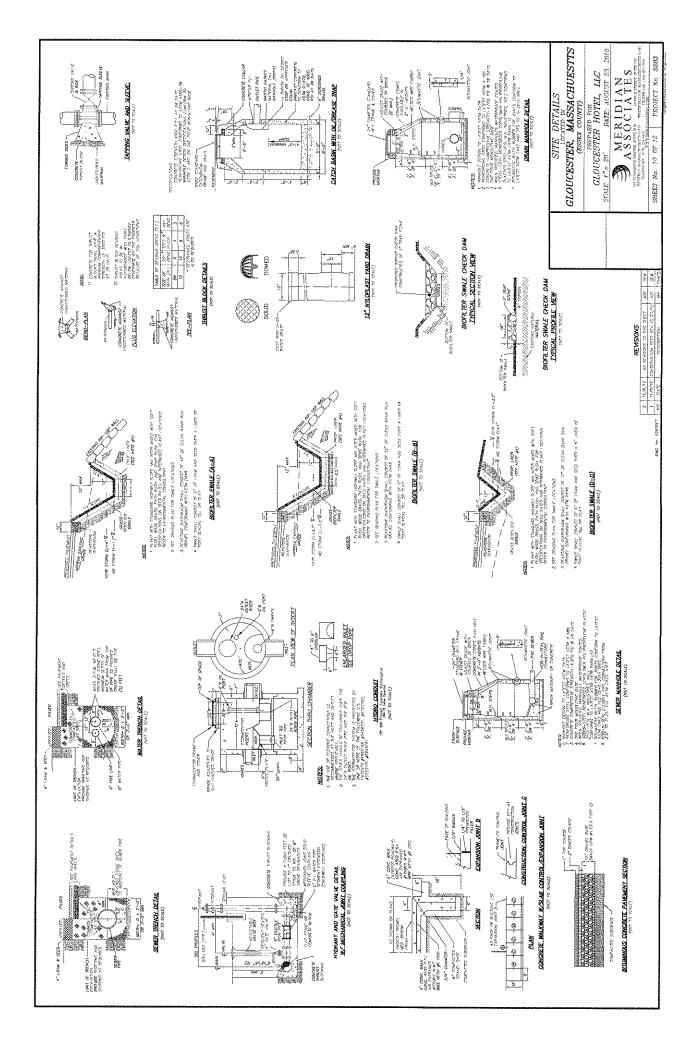


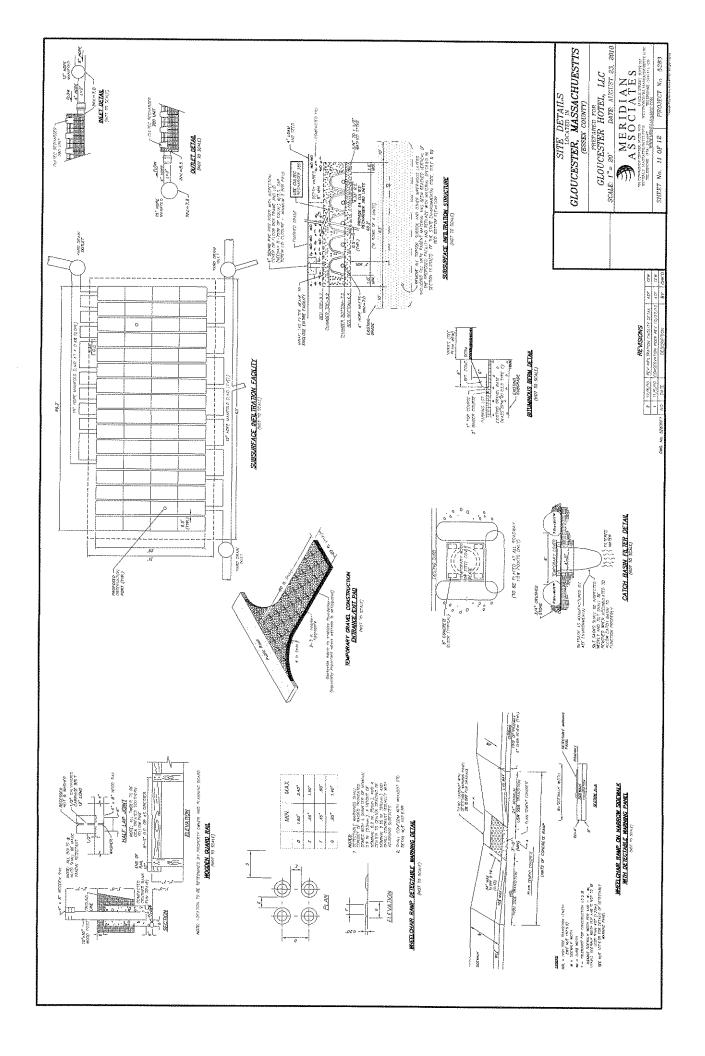


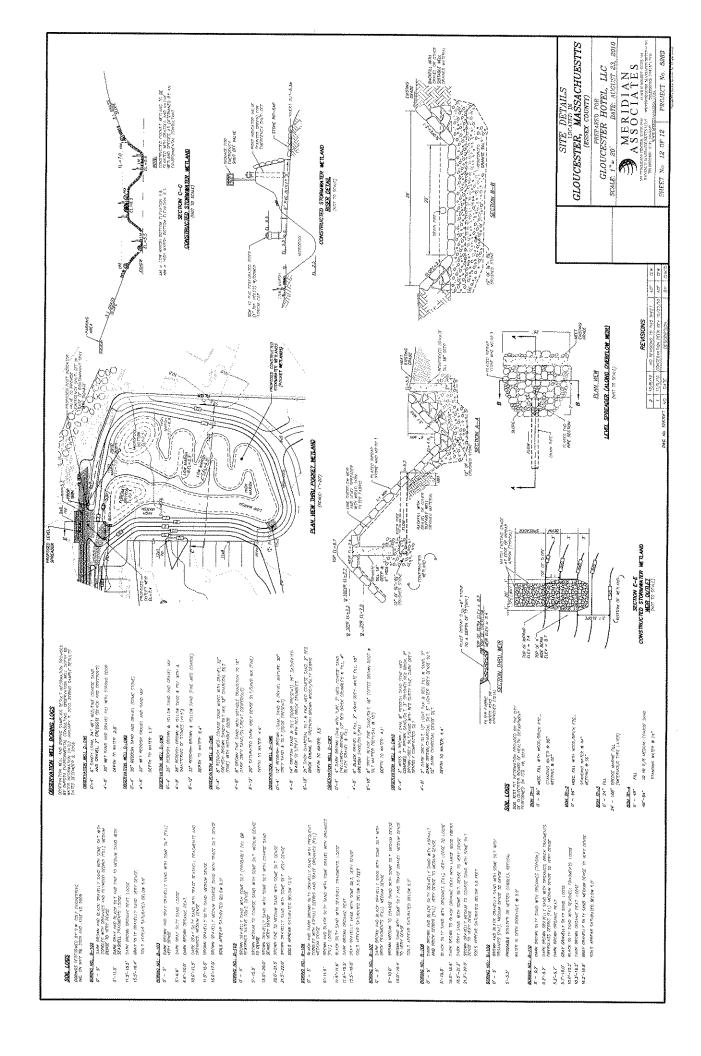














#### CITY OF GLOUCESTER

#### PLANNING BOARD

GLOUCESTER, MA

3 POND ROAD • GLOUCESTER, MA 01930 TEL 978-281-9781

FAX 978-281-9779

10 DEC -6 AM 9: 58

To:

City Council

From:

Planning Board

Date:

**December 2, 2010** 

Subject:

Gloucester Hotel, LLC -79-99 Essex Avenue -Major Project Special Permit

The Planning Board has completed the review of the Major Project Special Permit application filed by Hampton Inn and Suites to construct a ninety two (92) room hotel at 79-99 Essex Avenue (Assessors Map 218 Lots 1, 17, & 126). The project is to be located in an Extensive Business District (EB) in which hotels with greater than 30 guest units are permitted by City Council Special Permit pursuit to Use Table Section 2.3.1 (12) of the Gloucester Zoning Ordinance. Additionally, due to the size of the project it must also follow the requirements of Section 5.7 Major Project Special Permit.

A completed application was filed on or about December 21, 2009. The project was subsequently filed with the Conservation Commission, as nearly the entire project site is in its jurisdiction, with the project immediately adjacent to the Annisquam River. The project is in the Annisquam "riverfront area" as defined by the Massachusetts Wetlands Protection, and therefore must meet strict development and stormwater management standards. The first iteration of the project did not appear compliant in this regard, and the applicant submitted a new plan with a new design team in September 2010. To be clear for the record the Planning Board has based its review on the following list of submittals:

- Special Permit Application filed on or about December 21, 2009.
- Site Development Plan (12 Sheets), Prepared by Meridian Associates dated August 23, 2010 Revised November 5, 2010.
- Conceptual Landscape & Traffic Control, Prepared by Meridian Associates dated November 17, 2010.
- Stormwater Analysis and Calculation & Stormwater Management Report, Prepared by Meridian Associates dated August 23, 2010 Revised November 5, 2010.
- *Hampton Inn & Suites Exterior Elevation*, Prepared by Bound & Gillespie Architects, PLLC dated 02-01-10.
- *Transportation Study & Appendices* Hampton Inn and Suites, Prepared by Howard/Stein-Hudson Associates, Inc. dated October 28, 2009.
- Undated color renderings consistent with reference Exterior Elevation.

The applicant included an accounting of compliance with the six (6) special permit criteria of Section 1.8.3 of the Zoning Ordinance and a fiscal impact statement in its special permit application. Provided that the applicant bares the expense of any required utility upgrades,

the site is largely unutilized at this point and as outlined significant revenues and fees from construction permits, commercial real estate taxes, and room tax revenues would be anticipated. The applicant has produced multiple iterations of façades at the desire of the Planning & Development Standing committee to produce a more aesthetically pleasing design over the initial submittal. The Planning Board and the Engineering Department deferred to John G. Crowe and Associates, hired as an independent consultant on behalf of the Conservation Commission, on the stormwater drainage design. At its meeting of November 17, 2010, the Conservation closed its public hearing and approved the project, with the development of final conditions on the permit still outstanding. The applicant has worked with the Engineering Department on the water utility connections for the proposed project and all others (phone, cable, electric) are proposed to be underground. The layout of the project is substantially similar to that of the original submittal, and the Fire Department has indicated that adequate access will be provided from a fire fighting/emergency response perspective.

In the pursuit of a Hotel Major Project Special Permit, applicants are required to address both the Special Permit criteria of Section 1.8.3 as well as those included in Section 5.7 of the Zoning Ordinance. The Planning Board is required to review and report to the City Council on the same. Planning recommends with regard to the Special Criteria of Section 5.7.5, that substantial compliance has been presented both in testimony and is reflected in the modifications of the plans and application. It is also noted that the criteria of Section 5.7.5 are to be considered "guidelines". The following is a brief outline.

- **5.7.5** (a) The project has adequate access from Essex Avenue and Julian Road (which would be substantially improved), which would provide access for guest parking and a small parking area open to the public to provide access to the Annisquam Riverfront. Julian Road only provides access to one other property; one single family home. With all of the utility upgrading proposed, although it has not been suggested, the road will most likely require shoulder to shoulder repaving.
- **5.7.5 (b)** The provisions of this section pertain to projects to be served by onsite wastewater solutions. The applicant has suggested that the project will be served an existing sewer connection to the sewer main in Essex Avenue. It is not clear if there have been detailed discussions on the sewering of the project with the Engineering Department. It is suggested that the Council request an opinion of the Engineering Department as to the adequacy of sewer infrastructure.
- **5.7.5** (c) As outlined above the drainage design of this project has taken considerable time to review and perfect. Significant infrastructure and Low Impact Development techniques are integral to the current design. The design will meet the stringent standards of the Wetland Protection Act, and has been designed in substantial compliance with the Gloucester Subdivision Rules and Regulations. The stormwater design has a significant reliance on proposed infiltration areas. It is also understood that there are some contaminated soils on site that need to be removed. If not included as conditions in the Conservation Commission's permit, the Council may wish to condition that cleanup efforts are complete prior to the construction of infiltration areas.

Traffic impacts are greatest to the sole single family home on Julian Road and the home immediately to the north of Julian Road on Essex Avenue. It is not clear other than screening, if anything additional can be done in this respect. Although a number of new trips will be generated, Essex Avenue is a high capacity roadway. Most traffic issues are associated with the area are due to bridge openings that will not change if the project is constructed. Given the existing volumes on Essex Avenue the increases are relatively modest.

With regard to landscaping and screening, the Zoning Ordinance contains provisions to ensure the avoidance of major topographic changes or removal of large trees. The site is essentially devoid of vegetation due to its prior use as parking. The applicant has included a robust native planting plant for the site and the restoration of a streetscape for Julian Road. Much of the site plants are grass and shrubs, designed to maintain the existing views of the river from Essex Avenue.

- **5.7.5** (d) The applicant will need to comply with all applicable requirements of the Zoning Ordinance and Building Code and other than what it has requested relief from which includes increased height to forty eight feet, and required open space. All improvements will be required prior to occupancy.
- 5.7.5 (e) & (f) Apply to Assisted Living Residences and Shopping Centers, respectively.

After review of the project submission the Planning Board voted unanimously (3-0) to recommend to the City Council the issuance of the major project special permit, that the applicant has substantially addressed the special permit criteria, and suggests the following conditions.

#### **Conditions**

- 1. The applicant coordinates with CATA and/or private shuttles to link guests with Gloucester destinations.
- 2. Documentation associated with cleanup activities should be forwarded to the Community Development and Health Departments.
- 3. All operations and maintenance system reports of the stormwater and wastewater shall be forwarded to the Community Development and Engineering Departments.
- 4. Utility upgrades and repaving of Julian Road shall comply with all applicable road opening and paving requirements of the Department of Public Works.
- 5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.
- 6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:

- \* All roadways and parking areas within the Project and Julian Road
- \* Stormwater management facilities, including detention basins
- \* Snow plowing of internal roads and parking areas
- \* Landscaping within the Project and Julian Road
- \* Trash removal
- \* Lighting within the Project
- \* Water and sewer services within the Project.
- 7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, should be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

#### Conditions Pertaining to the Construction Phase of the Project

- 8. A preconstruction conference with City departments should be held prior to the commencement of construction of the Project. The contractor should request such conference at least fourteen days prior to commencing construction by contacting the Planning Director and Engineering Department in writing. At the conference, the Applicant, and municipal officials should agree upon a schedule of inspections. The Applicant should provide the City with emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.
- 9. During construction of the Project, the Applicant should conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.
- 10. The City Council's agents may enter onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.
- 11. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department.

- 12. Dust from outside activities must be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels dust:
- \* Wetting soils that are excavated from unsaturated zones
- \* Wetting equipment during excavation/loading activities
- \* Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- \* Stockpiles left more than 30 days should be stabilized
- \* Restricting vehicle speeds and travel routes on the Site
- \* Covering truck beds transporting soils off-site/on-site to prevent dust generation.
- \* Sweeping paved areas if a nuisance is created by blowing soil, dust, or debris.
- 13. The Applicant must be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.
- 14. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.
- 15. Following construction of the Project, the Applicant should provide an "as-built" site plan to the Engineering Department, Building Department, and Community Development Department prior to the issuance of a certificate of occupancy for the Project in accordance with applicable regulations. The Applicant should provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans should also be submitted in electronic format.

### APPLICATION to the Gloucester City Council For a Special Permit and Dimensional Variance to allow the construction of A Wireless Communications Facility

T-Mobile Northeast LLC, A wholly owned subsidiary of T-Mobile USA, Inc. 15 Commerce Way, Suite B Norton, MA 02766 Applicant

> Property Location: 50 New Way Lane Map 221/Lot 46

Prepared by: Jackie Slaga, Esq 95 Indian Trail Saunderstown, RI 02874 401-855-0824

#### TABLE OF CONTENTS

#### APPLICATION to the Gloucester City Council For a Special Permit and Dimensional Variance To allow a Wireless Communication Facility

T-Mobile Northeast LLC,

A wholly owned subsidiary of T-Mobile USA, Inc.

15 Commerce Way, Suite B

Norton, MA 02776

Applicant

Property Location: 50 New Way Lane Map221 / Lot 46

| Application FormsTab 1                      |
|---|
| Legal Brief                                 |
| Radio Frequency Affidavit                   |
| Zoning DrawingsTab4                         |
| Photographic SimsTab 7                      |
| FCC LicenseTab 8                            |
| Letter of Authorization from Property Owner |
| Certified Abutters List                     |



#### CITY OF GLOUCESTER

GLOUCESTER, MASSA CHUSETTS - 01930

#### City of Gloucester Special Council Permit - Application

man Ballo Special Council Permit - A

wireless communications facility on existing tower

Applicant's Name: T-Mobile Northeast, LLC

(if different from applicant\_)

Owner's Name Barletta, Pasquale

Location 50 New Way Lane

CITY CLERK GLOUGESTER. MA

10 OCT 28 PM 12: 09

(Public hearing to be held no later than above date)

In conformance with the requirements of the Zoning Ordinance of the City of Gloucester, the undersigned hereby applies for a Special Council Permit (CC or CCS) in accordance with Section 1.8.3 of the Ordinance and other Sections as listed below:

Type of Permit(Give specific section of Zoning Ordinance) special permit and dimensional variance pursuant to 5.13 - Personal Wireless Service Facility to all collocation of Applicants

| (Street Address)  |  |
|---|--|
| Zoning Classification: R-30   |  |
| <ul> <li>Attached is a list of owners (with complete addresses) of street or way, direct abutters, and abutters to the abutters property line, as they appear on the most recent City of C</li> <li>Attached is a listing of criteria set forth in Section 1.8. supportive material or comments the applicant may wish Conditions, ect.) if necessary.</li> <li>Attached are the necessary plans as set forth in Section of minimum consist of an accurate plot plan (to scale) show</li> </ul> | of land within three hundred (300) feet of the Bloucester Assessor's Maps and Tax list.  of the Zoning Ordinance, including any to include (i.e. ZBA decisions, Order of |
| City of Gloucester - Action  Fee: 38000 City Clerk (received): 10/28/2010 City Council (received): 19/10 Public Hearing (ordered) Public Hearing (opened) Public Hearing (closed) Final Decision Disposition (Approved, Denied, Approved w/conditions)  | Applicant:  Name (Signature) Jackie Slaga for Appl 2  95 Indian Trail Address Saunderstown, RI 02874  401-855-0824 Telephone   |
| Certified for completeness  Building Inspector:  Date: 10/01/0  Planning Director:  Date: 10/01/0   |  |
| Date. 1975  |  |

#### Section 1.8.3 - (Use additional sheets, if necessary)

#### 1. Social, Economic, or community needs served by the proposal:

The proposed facility will enhance both wireless service and E-911 service to the area.

#### 2. Traffic flow and safety:

Once constructed the proposed facility will only generate 1-2 vehicle trips monthly for maintenance.

#### 3. Adequacey of utilities and other public services:

There are adequate utilities at the site for the proposed facility.

#### 4. Neighborhood character and social structure:

As the proposal is to collocate on an existing tower, and as the site has been designed to be visually identical to the existing facility, the design coupled with the sites remote location and significant tree canopy will significantly minimize the visual impacts to both the site and the surrounding area

#### 5. Qualities of the natural environment:

For the reasons stated in number 4 the proposed facility will not impact the natural environment in this area.

#### 6. Potential fiscal impact:

The proposed facility will add tax revenue without adding any burden to city services.

The applicant is advised that City staff is available to assist the applicant in preparing the application, including the Inspector of Buildings and City Planner.

#### Application For Special Permit

The undersigned applicant hereby applies for a special permit under M.G.G., Ch. 40A, § 9 as follows.

| 1. Applicant (includes equitable owner or purchaser on a purchase and sales agreement)                         |
|--|
| Name: T-Mobile Northeast, LLC  |
| Address: 15 Commerce Way, Suite B Norton, MA 02766   |
| Tel. #: Days 401-855-0824 Evenings 401-855-0824  |
| Check here if you are the purchaser on a purchase and sales agreement.  Applicant is a lessee on the property. |
| 2. Owner, if other than applicant:   |
| Name: Barletta, Pasquale   |
| Address: 35 Trask Street   |
| Tel. #: DaysEvenings   |
| 3. Property:   |
| Street address: 50 New Way Lane  |
| Assessor's map: 221 Lot: 46  |
| Registry of deeds where deed, plan, or both records:   |
| Essex  |
| eed recording: Book 15750 Page 321   |
| lan recording: Plan #  |
| roperty is location in the R-30 zoning district.   |

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| 4. | Nature | of | relief | requested: |
|----|--------|----|--------|------------|
|----|--------|----|--------|------------|

| Special permit pursuant to Artical/Section                         | 5.13                   | of the    |
|--|------------------------|-----------|
| Zoning Ordinance/By-Law which authorizes                           | The City Council       | to permit |
| by special permit and dimension                                    | nal variance construct | ion of a  |
| wireless communications facili<br>Detailed explanation of request: | ty pursuant to Section | 2 5.13.   |

Applicant is seeking a special permit and dimensional variance pursuant to Section 5.13 (personal wireless service facility) of the City's Ordinance to allow collocation of Applicants wireless communications facility on top of an existing 68-foot wireless communications tower--Section 5.13 allows collocation on existing towers provided there is no increase in height, therefore Applicant is seeking variance to allow a 10 foot increase in height. See attached detailed legal brief and findings of fact.

5. Evidence to support grant of special permit:

Because of reasons set forth below, the special permit requested will be in harmony with the intent and purpose of the Zoning Ordinance/By-Law:

The proposed facility is in harmony with the intent and purpose of the Ordinance. Two major goals of the ordinance is to minimize tower proliferation through shared use of towers or structures and to minimize visual impacts through proper design and siting. This proposal is consistent with both, as we are proposing to locate on an existing tower and have designed our facility consistent with the existing facility, the proposed installation at this location will have minimal impact to both the site and the area.

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| Because of reasons set forth below, the special permit requested will meet the additional requirements the Zoning Ordinance/By-Law as follows:  |
|---|
| Please see attached legal brief and findings of fact-outlining  |
| the sites compliance with the requirements of the Ordinance.  |
|   |
|   |
|   |
|   |
|   |
| If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the Applicant or will represent the Applicant, owner or equitable owner must designate such representative below. |
| Name of Representtive: Jackie Slaga   |
| Address of Representtive: 95 Indian Trail   |
| Tel. #: Days 401-855-0824 Evenings 401-855-0824   |
| Relationship of representative to owner or equitable owner:   |
| Zoning Manager .  |
| I hereby authorize Jackie Slaga to represent my interests before the  |
| Special Permit Granting Authority with respect to this Special Permit Application.  |
| (Signed by owner/equitable owner) Shayta Cordon   |
| Shayana Cordova, Project Manager  |
| T-Mobile Northeast LLC  |

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| I hereby certify under the pains and penals Application is true and complete. | ties of perjury | that the information contained in the |
|---|-----------------|---------------------------------------|
| Aut ST  | 10-19-10        |                                       |
| Signature of Applicant  | Date -          |                                       |
| Jackie Slaga for Applicant  |                 |                                       |
| see attached letter of author   | orization       |                                       |
| Signature of Owner, if other than Applicant                                   | Date            |                                       |
| Signature of Equitable Owner  | 125/10<br>Date  |                                       |
| Who is filing Application to  |                 |                                       |
| satisfy condition of  |                 |                                       |
| Purchase and sales agreement  |                 |                                       |

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Jacqueline Slaga Attorney at Law 95 Indian Trail Saunderstown, RI 02874 401-855-0824

Gloucester City Council City Hall 9 Dale Avenue Gloucester, MA 01930

RE:

Application for a Special Permit and Dimensional Variance to allow the construction of a

Wireless Communications Facility on an existing Monopole

Location:

50 New Way Lane

Map 221/ Lot 46 (the "Property")

Applicant:

T-Mobile Northeast LLC,

A wholly owned subsidiary of T-Mobile USA, Inc (the "Applicant")

Dear Honorable Members of the Gloucester City Council:

I represent the Applicant in connection with an application for a special permit and dimensional variance from the City of Gloucester City Council. The Applicant seeks to install, operate and maintain a wireless communications facility including the construction of an 8-foot extension atop an existing 68foot monopole to allow the Applicant to flush mount 3 antennas at 73-feet (centerline of antennas) to a proposed 10 foot extension of the existing tower, all associated cables will run inside the existing monopole and all associated equipment will be located within the existing fenced compound at the base. The Property is located in the Residence R-30 zoning district. The use of the Property for the proposed wireless communications facility is permitted by special permit from the City Council pursuant to Section 5.13(Personal Wireless Service Facility). Because the Applicant is proposing to mount its' antennas above the height of the existing tower a Dimensional Variance is required as well pursuant to Section 5.13.3.3 d (Dimensional Requirements, Preexisting Structures) of The City of Gloucester's Zoning Ordinance to allow collocation on an existing wireless facility in excess of the City's height restrictions for wireless communication facilities, which limits the height of collocation on existing towers to the height of the existing tower. Because the existing height is low the Applicant requires a 10-foot extension of the existing tower in order to provide the required coverage to the area. The property provides a unique opportunity - given the location of the parcel relative to the Applicant's coverage objective, the existing of a wireless communications tower and size and remoteness of the lot - to allow the Applicant to install a structure- mounted wireless communications facility that will result in minimal adverse impacts to both the site and the surrounding area. The Applicant's proposal has been designed to be consistent with the character of the existing structure and facility and will therefore have a minimal visual impact to the site and surrounding area and satisfies the requirements for a Special Permit and Dimensional Variance.

The Applicant seeks to install, operate, and maintain a wireless communications facility, including the construction of a 10-foot extension atop of an existing 68-foot monopole to allow the Applicant to flush mount 3 antennas at 73-feet (centerline of antennas) for an overall of 78-feet, resulting in a 10-foot increase in height, all associated cables will run inside the existing monopole and all associated equipment will be located within the existing fenced compound at the base. The Applicant's Facility is shown on the plans attached hereto, and incorporated herein by reference (the "Plans"). The proposed facility has been designed to be visually identical to the existing facility, therefore given the design of the facility, the remoteness of the site and the significant tree canopy surrounding the site, the

proposed installation will have a negligible impact to both the site and the area as evidenced by the photographic sims (the "Photos) provided with this application.

#### I. Background

The Applicant is licensed by the Federal Communications Commission ("FCC") to construct and operate a PCS network in various markets throughout the country, including the City of Gloucester. A copy of the Applicant's FCC license is attached hereto. The Applicant is in the process of designing and constructing a telecommunications system to serve all of the Commonwealth of Massachusetts. One of the key design objectives of its system is to provide seamless coverage without gaps or dead spots. Such a system requires a grid of radio transmitting and receiving links located approximately .5 to 2 miles apart, depending on the location of existing and proposed installations in the surrounding area as well as the existing topography. The radio transmitting and receiving facilities operate on a line-of-sight basis requiring a clear path from the facility to the user on the ground. This dynamic requires the antennas to be located above the tree line, and in a location where the signal is not obstructed or degraded by other buildings or by topographical features such as hills.

#### II. RF Coverage Determination

The Applicant has performed a study of radio frequency coverage for the City of Gloucester and from the Property, the results of which are shown on the coverage maps submitted herewith. The Applicant has determined that a facility located on the Property will provide adequate coverage to the targeted sections of the City of Gloucester and the immediately surrounding area if the Applicant's antennas are located at the requested height of 73-feet (Centerline of the antennas) as depicted on the Plans. In connection herewith, the Applicant has submitted a radio frequency coverage map, which shows its current coverage and the gap in coverage that the proposed site will fill, and a radio frequency coverage map showing the anticipated coverage from the proposed site, demonstrating how the proposed site will fill the gap in coverage. The proposed Facility is required to fill in gaps in coverage along Routes 128 and 133, two heavily travelled roads in this area as well as the surrounding community. Radio Frequency plots have been submitted with this application that demonstrate the existing hole in the network coverage in this area as well as a plot map that demonstrates how the proposed facility will fill in this gap and provide seamless and reliable coverage not only to the Highways identified but also to the surrounding area. The proposed site will also work in conjunction with existing and proposed sites in the area in order to provide seamless and reliable service to the residents and visitors of this area.

#### III. The Facility

As shown on the Plans, the Applicant's proposed Facility will include the construction of an 8-foot extension atop an existing 68-foot monopole to allow the Applicant to flush mount 3 antennas at 73-feet (centerline of antennas), all associated cables will run inside the existing monopole and all associated equipment will be located within the existing fenced compound at the base. The proposed facility will exceed the height of the existing tower by 8-feet for an overall height of 76-feet. The proposed facility will be visually identical in size and scale to the existing facility, as evidenced by the Photos submitted with this application. The antennas will be connected to the equipment cabinets by coaxial cable running inside of the existing monopole. Equipment cabinets will be located at the base of the tower inside the existing fenced compound. Based on the design of the facility, the remoteness of the site and the significant tree canopy that surrounds the site, the proposed facility will have minimal impact to both the site and the area.

Per FCC mandate, enhanced emergency (E911) service is required to meet nationwide standards for wireless communications systems. To comply with this federal standard, the Applicant will also

install one (1) Global Positioning System (GPS) antenna and one (1) E911 GSM antenna. Both the GPS antenna and the E911 antennas will be mounted on the ice bridge at the base of the tower inside the fenced compound. Because the facility has been designed to be visually identical in scale and design with existing conditions, once constructed the entire facility will have a negligible visible impact to the site and the area as evidenced by the Photos submitted with this application.

After installation, the Facility will be unmanned and will only require bi-weekly visits by maintenance personnel who will inspect the Facility to ensure it remains in good working order. The only utilities required to operate this Facility are standard 120-volt electrical power as well as telephone service. A structural has been performed on this structure and it has been determined to be structurally sufficient with minor modifications to accommodate the loading of the proposed installation, a stamped structural has been submitted with this application. The Facility will comply with all applicable local, state and federal safety rules and regulations.

#### IV. Legal Arguments and Findings of Fact for a Special Permit

### <u>The Applicant's Proposal Satisfies the Criteria for the Grant of a Special Permit for a Wireless Communications Facility as Set Forth in Section 8.9 of the Ordinance.</u>

The Applicant's proposed Facility complies with the requirements for the grant of a special permit and dimensional variance for a wireless communications facility as follows (**Ordinance** in **bold**):

#### Section 1.4.2 – City Council

Special permits shall be granted by the City Council only if such (Council) makes determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the City, in view of the particular characteristics of the site and the proposal in relation to the site. The determination shall cite considerations of each of the following:

- 1. Social, economic, or community needs served by the proposal
- 2. Traffic flow and safety
- 3. Adequacy of utilities and other public services
- 4. Neighborhood character and social structure
- 5. Qualities of the natural environment
- 6. Potential fiscal impact

The benefits of the proposed facility significantly outweigh any perceived adverse impacts. The proposed facility is proposed to be located on top of an existing wireless communications tower on a large, remote parcel significantly screened by dense vegetation. The proposed installation will include an 10-foot extension atop an existing 68-foot tower, to allow the Applicant to flush-mount three (3) antennas to the 10-foot extension, said installation to be visually identical to the existing facility in both design and scale. All associated cables will run inside the tower and all associated equipment will be located inside the existing fenced area. Based on the design of the proposed facility, the remoteness of the site and the significant tree canopy that surrounds the site, once constructed the site will have minimal visual impact to both the site and area. Once constructed the facility will only generate 1 to 2 visits monthly for maintenance and will therefore not impact area traffic. Adequate utilities already exist at the site for the proposed collocation. The proposed installation at this site is not incompatible with the existing character and social structure of the site or the area. By collocating on the existing tower, the Applicant is avoiding the necessity of building a new tower in this area, which is more consistent with the neighborhood character and environmental quality of the area. Further, the proposed facility will benefit the residents and visitors of this area by providing enhance wireless communication service and E-911

service to the area. Wireless use is booming in the United States. More than 80% of all Americans now subscribe to cell phone service. People of all ages rely increasingly on their cell phones to talk, text, send photos, search the Internet and more. In 2006, cell phones became the predominant way Americans communicate by phone, to keep up with this demand both wireless carriers and local governments have to keep pace with network development in order to ensure that reliable service can be delivered. Additionally, the proposed facility will enhance E-911 availability and effectiveness. Today, roughly half the 911 calls are made from a cell phone; wireless communication has become vital to public safety. In order for E911 to work effectively in an area there needs to be enough facilities throughout a community to ensure that a distressed caller's phone will have adequate signal and are sufficient to provide emergency responders with the best ability to pinpoint the location of a distressed caller.

- 5.13.3.1 Use Regulations: A wireless service facility shall require a building permit in all cases and may be permitted as follows:
  - a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 5.13.3.39(e). Such installations shall require a special permit

The proposal is to collocate atop an existing 68-foot monopole, due to the height of the pole relative to the significant surrounding tree canopy the Applicant is proposing to exceed the top of the monopole by 10-feet; as such we have submitted an application for both a special use permit and a dimensional variance. The antennas will be flush-mounted to a proposed 10-foot extension and will be designed to be visually identical to the existing facility, all cables will be run inside the pole, and all equipment will be located inside the existing fenced compound; once the facility is constructed the proposed addition will have a minimal visual impact to the site and area.

- b) Not applicable as we are not proposing a roof-mounted or ground-mounted facility
- c) Not applicable as the proposed site not located within any of the identified Wireless Overlay districts.
- 5.13.3.2.a This section is not applicable as the Applicant is proposing to collocate on an existing wireless communications facility and is not proposing the construction of a new tower. Absent our ability to install on the proposed site, the Applicant would have to develop a new tower in the area to meet its coverage objective as there are no other structures of sufficient height in the area that would meet the Applicant's coverage objective
- 5.13.3.2.b This section is not applicable as the Applicant is proposing to collocate on an existing wireless communications facility and is not proposing the construction of a new tower. The site has been designed to be visually identical to the existing facility. The antennas will be mounted to the top of the tower and will be visually identical in scale and design to the existing pole, all cables will run inside and all equipment will be located inside existing fenced area, once constructed the site will have a negligible impact over existing conditions as evidenced by the photo simulations provided with this application.
- 5.13.3.2.c A copy of the Applicants FCC license has been submitted with this application.
- 5.13.3.2.d This section is not applicable as the Applicant is not proposing any repeaters.

- 5.13.3.3 Dimensional Requirements. Wireless service facilities shall comply with the following requirements:
- a) Height, general. Regardless of the type of mount, wireless service facilities shall be no higher than 10 feet above the average height of buildings within 300 feet of the proposed facility. In addition, the height of a wireless service facility shall not exceed by more than 10 feet the height limitations of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney, or similar structure. Wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.

The existing tower is 68-feet AGL and the proposed facility will extend 10- feet above the structure height for an overall height of 78 feet. The height is required in order to meet the Applicant's coverage objective in this area; therefore the Applicant seeks a dimensional variance from this standard.

- b) Height, ground-mounted wireless service facility. This section is not applicable as we are proposing to locate our facility on an existing wireless communications facility. Absent our ability to use the proposed location, the Applicant would pursue the construction of a new tower in this are as there are no other existing structures in the targeted coverage area that would satisfy the Applicant's coverage objective.
- C) Height, Side- and Roof -mounted Facilities. This section is not applicable as we are not proposing to locate our facility on an existing building.
- D) Height, Existing Structures. New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation or a personal wireless service facility: water towers, guyed towers, lattice towers and monopoles.

The applicant is pleased to have identified an existing wireless communications monopole upon which to locate its facility. Due to the existing height of the structure (68-feet) and the height of existing trees in the area, the Applicant is proposing to locate its facilities on top of the pole for an overall height of 78-feet; accordingly the Applicant is requesting a dimensional variance from this restriction.

- E) Height, Preexistent Structures (Utility). This section is not applicable as we are not proposing to locate our facility on an existing utility structure.
- F) Height, Personal Wireless Service Facility Overlay Districts: This section is not applicable. The proposed site is not located within a designated overlay district.
- G) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located.

The proposed facility does comply with the front, rear and side yard setbacks of the R-30 zoning district. Additionally, all associated equipment will be located inside the existing fenced area; therefore existing setbacks for the facility will not be altered.

1) This section is not applicable as the Applicant is not proposing the construction of a new ground-mounted facility

2) In the event that a preexistent structure is proposed as a mount for a wireless service facility, the setback provisions of the zoning district shall apply. In the case of the preexistent non-conforming structures, wireless service facilities and their equipment shelters shall not increase any non-conformity.

As stated above the proposed facility is to be located on an existing tower, with associated equipment located at the base inside the existing fenced area, as such existing setbacks are not altered by this proposal. The proposed facility does comply with all other district setback requirements.

- H) Flexibility: This section is not applicable as we are not proposing a new ground-mounted tower.
- 5.13.3.4 Personal Wireless Service Facility Overlay District.

This section is not applicable as the site is not located within one of the four defined areas.

#### 5.13.3.4 Special Permit Regulations

All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

#### 5.13.4.1 Design Standards

- a) Tiering: The Applicant is pleased to have identified an existing wireless communications structure upon which to locate, consistent with the City's policy to utilize existing structures wherever possible in order to avoid unnecessary tower proliferation and minimize visual impacts.
- b) Visibility/Camouflage or Concealment. Personal Wireless Service Facilities shall be camouflaged or concealed as follows:
  - 1) Camouflage or Concealment by Existing Building or structures:
  - A) When a wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility within or behind preexistent architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front façade in order to limit their impact on the building's silhouette.
  - B) Wireless service facilities which are side-mounted shall blend with the preexistent buildings architecture and if over 5 square feet, shall be shielded with material which is consistent with the design features and materials of the building.
  - 2) Camouflaged by Vegetation. If wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and under story vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on

the subject property or installed as part of the proposed facility or a combination of both. The City Council (SPGA) shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

The Applicant complies with the applicable requirements. The proposed facility has been designed to be visually identical to the existing facility, in both design and scale. Up to three (3) antennas will be flush-mounted to an 10-foot extension mounted to the top of the existing tower; the facility has been designed to be visually identical to the existing facility. All cables will run inside the tower and all equipment will be located inside the existing fenced compound located at the base. Further the site is located in a remote area surrounded by dense vegetation, once constructed the site will have minimal impact on both the site and the character of the surrounding area.

#### 3) Color

- 1) Wireless service facilities, which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
- 2) To the extent that any wireless service facilities extend above the height of the vegetation immediately surrounding it, they must be painted with neutral colors that are harmonious with and blend with the background, such as the sky or wooded terrain.

The proposed facility complies with this section as the proposed facility has been design to be visually identical in scale and design to the existing facility. Three antennas will be flush-mounted to a 10-foot extension; the antenna installation will be visually identical in scale and design to the existing facility at this site. All cables will run inside the tower, so that once constructed the site will have a minimal impact on both the site and the character of the surrounding area.

#### c) Equipment Shelters

- 1) Equipment shelters must be located in underground vaults; or
- 2) designed consistent with traditional materials, colors and design of the area; or
- 3) camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building, and/or wooden fence acceptable to the permitting authority.

The Applicant is not proposing a shelter. Equipment cabinets will be located at the base of the existing tower inside the existing fenced compound.

#### d) Lighting and signage

1) Wireless service facilities shall be lit only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and foot-candle measurements at the property line shall be 0/0 initial foot-candles when measured at grade.

The proposed facility will not be lit.

2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the City's sign regulations.

The Applicant will comply with this requirement. There will be no external signs posted at this site, other than those required to provide emergency contact information.

#### e) Historic Buildings and Districts

- 1) Any wireless service facilities located on or within a historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- 2) Any alteration made to a historic structure to accommodate a wireless service facility shall be fully reversible
- 3) Wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

This section is not applicable as we are not locating on a historic structure or within a historic district. Nevertheless, our proposed facility has been designed to be consistent with the existing tower, given the design of the facility and the remote location of the site, the proposed installation will not create a visual impact on the above referenced resources.

#### f) Scenic Landscapes and Vistas

- 1) No new ground-mounted personal wireless service facilities shall be located within areas contained in the Visual Overlay District on file in the City of Gloucester Department of Community Development.
- 2) Roof-mounted, side-mounted, camouflaged or otherwise concealed personal wireless service facilities may be subject to the Special Permit process and will be permitted within the areas shown on the Visual Overlay District Map, provided they meet the standards of this Ordinance.

This section does not apply. The proposed facility will be mounted on an existing tower, outside the Visual Overlay District. Nevertheless, our proposed facility has been designed to be consistent with the existing tower, given the design of the facility and the remote location of the site, the proposed installation will not create a visual impact on the above referenced resources.

g) All ground mounted wireless service facilities shall be surrounded by a security barrier and shall be protected against unauthorized climbing or other access by the public.

The proposed facility complies with this section. The entire facility will be contained inside the existing fenced compound.

#### 5.13.4.2 Environmental Standards

a) Wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

This section is not applicable. The proposed facility will not impact any wetlands.

b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. Applicant must comply with all federal, state, and local regulations governing hazardous materials.

There will be no discharge of pollutants or hazardous wastes from the Facility. The Facility will comply with all applicable federal, state and local standards.

c) Storm water runoff as a result of the wireless facility shall be contained on site

The proposed facility will not alter storm water run off on site.

- d) Environmental Standards Noise:
- 1) Ground mounted equipment for wireless service facilities shall not generate acoustic noise in excess of 50 dB at ground level at the property line.

The equipment does comply with this standard.

5) Roof-mounted equipment for wireless service facilities shall not generate acoustic noise in excess of 50dB at ground level at the base of the building closest to the antenna.

This section is not applicable as we are not collocating on a roof.

#### 5.13.4.3 Health Standards

1) Radiofrequency Radiation (RFR) Standards. All equipment proposed for a wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC guidelines were published on August 1, 1996. The FCC had extended the implementation date of the FCC Guidelines from January 1, 1997 to October 15, 1997.

The proposed Facility will comply with all federal, state and local regulations including radio frequency emission regulations as set forth in Section 704 of the TCA.

#### 5) Application Procedures and requirements

- a) Applications for all necessary relief have been submitted.
- b) The Applicant has submitted all required documents, including:
  - 1) All necessary contact information has been provided as well as all necessary authorizations to file the subject applications.
  - Scaled zoning drawings prepared by a professional engineer in the Commonwealth of Massachusetts that indicate the subject property including the name of the nearest roads as well as the assessor map, parcel number and zoning designation of the subject parcel as well as all other required and relevant information. The Applicant has submitted a locus map showing the subject property and all properties within 300 feet.

- Zoning drawings have been submitted with all the necessary information for the review of this project.
- 4) The Applicant has submitted before and after photo renderings of the proposed facility
- 5) The Applicant has provided an affidavit relative to the ambient noise of the equipment to be installed at the site.
- The Applicant has submitted the Required Radiation (RFR) Filing Requirements for this site. The applicant will comply with any reasonable post integration reporting as may be required. The Department of Health no longer has a process for reviewing or approving these facilities
- 7) The applicant will comply with all Federal Environmental Filing Requirements.
- 8) The applicant respectfully requests waivers of those provisions that are specific to ground mounted facilities.
- 9) The Applicant understands that future modifications to increase the facility will require a new Application
- 10) The Applicant will comply with any reasonable monitoring and maintenance requirements.
- 11) The Applicant will comply with all requirements for removal if facility is abandoned or discontinued

### V. Legal Arguments and Findings of Fact for in Support of a Dimensional Variance

1. Literal enforcement of the Zoning Ordinance would involve a substantial hardship, financial or other, to the Applicant.

The intent of the Telecommunications Act of 1996 (the TCA) enacted by the U.S. Congress was to institute a framework to promote competition and innovation within the telecommunications industry. Under its license from the FCC, the Applicant is obligated to provide a reliable "product" (i.e. wireless communications service) to the population in the greater Boston region, which includes the City of Gloucester. Likewise, consumer expectations for increasingly robust and reliable service requires competing service providers (such as the Applicant's, operating under the brand name T-Mobile) to identify and remedy existing gaps in reliable network coverage, or gaps that result from increasing subscriber voice and data traffic beyond the limits of existing network infrastructure. A carrier's failure to remedy network gaps in a timely fashion can result in a significant loss of subscribers to competing telecommunications carriers. As demonstrated in the Affidavit of Radio Frequency Expert and Service Coverage Maps provided by the Applicant and attached hereto, the proposed WCF and corresponding relief requested are necessary to remedy a gap in reliable service coverage within the Applicant's existing network infrastructure.

Given the location of the significant gap in coverage, and the location of the proposed site, both depicted on the coverage maps submitted herewith, the proposed wireless communications services cannot be provided without requiring this minor waiver of the Ordinance. The existing tower is only 68-feet in height, this coupled with the sites remote location and dense vegetation that surrounds the site, require the Applicant to seek a dimensional variance for the additional height. The next available height on the tower would be at 55-feet above ground and this elevation is not sufficient to clear the significant tree canopy in and around the area and thus would not work to provide the required coverage to the area. Without the requested relief the Applicant would be unable to provide service to its customers in this area of the City. The existence of a major gap in service does constitute a hardship, both financial and in terms of the applicants ability to conduct it's lawful and federally licensed use within this area of the City. Additionally, the applicant would be at a competitive disadvantage with other carriers already providing service in this area.

Wireless carriers need to operate at above ground elevations that are typically higher than what exists in an area or is otherwise allowed by zoning. It is only as a last resort that wireless carriers proceed to develop new tower sites to meet their coverage objective in an area. First and foremost carriers strive to identify existing tall structures such as this wireless communications tower in order to avoid construction of new structures and still meet their coverage objective. The height and location of the subject tower makes this a unique site for the proposed installation. Without the proposed wireless facility at this site, the Applicant will be unable to provide adequate coverage to its customers in this area and will be at a competitive disadvantage with the carriers located here. For all of the above denial would amount to a substantial hardship.

The height restriction limiting wireless service facilities, regardless of the type of mount to ten feet above tallest height of buildings within 300 feet or 10 feet above district height limits or limiting the use of existing wireless communication facilities to height of structure are all requirements that would render many existing structures not viable. Wireless carriers, such as the Applicant, are trying to utilize existing structures to provide coverage to otherwise residential areas, where the construction of new towers is generally not viable due to both zoning and leasing constraints. Because of the constraints of building new towers in areas like this, the inability to utilize existing structures would result in a significant hardship to the Applicant who would be unable to fill the coverage gaps in these types of areas. At a time when wireless consumers are demanding door to door service and reliable wireless service in the home the impact of not being able to utilize existing structures, such as the proposed site, is even more pronounced.

Accordingly, a literal enforcement of the provisions of the Ordinance would prevent the Applicant from eliminating an existing gap in reliable service coverage, resulting in a potential loss of subscribers and the inability to effectively compete for subscribers with FCC licensed competitors in the market, contrary to the intent of the Ordinance and the U.S. Congress in enacting the TCA.

2. The hardship is owing to the circumstances relating to the soil conditions, shape, or topography of such land or structures, and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

The Property is a large parcel, currently occupied by a residence and an existing 68-foot wireless communications tower. The surrounding area is rural residential with large areas of dense vegetation and therefore it would not make sense to develop a second tower site in this area when collocation on the existing tower, with the minor dimensional variation, provides the necessary coverage. The Property provides a unique, given the location of the parcel relative to the Applicant's coverage objective, the existence of a wireless communications tower, the remote location of the tower and the significant tree canopy that shields it from view, to allow the Applicant to install a wireless service facility, which as designed will have minimal impact to the site and to the surrounding area. The site has been design to be visually identical to existing facility. All associated equipment and cables will be located inside the tower. Once constructed the site will have a negligible impact on the character of the site and to the surrounding area.

Wireless carriers need to operate at above ground elevations that are typically higher than what exists in an area or is otherwise allowed by zoning. It is only as a last resort that wireless carriers proceed to develop new tower sites to meet their coverage objective in an area. First and foremost carriers strive to identify existing tall structures such as this tower in order to avoid construction of new structures and still meet their coverage objective. The height and location of the subject tower makes this a unique site for wireless in this area. Additionally, the minor deviation from the City's height restriction is actually consistent with the City's larger goals that existing structures be utilized wherever possible in order to minimize visual impacts and tower proliferation.

The PCS (Personal Communications Service) system being developed by the Applicant has been designed employing the most sophisticated radio frequency engineering methods available. Radio frequency engineers determine the placement of network points-or-presence using computer engineering models that simultaneously evaluate area topography and population patterns to identify specific geographic areas to be serviced by each antenna facility in the network. As a result of this modeling, combined with actual coverage data provided by existing "on air" facilities, the Applicant's radio frequency engineers have identified a limited geographic area as necessary location for a communications facility to remedy an existing gap in reliable service coverage in the general vicinity of the Property. Without the requested relief, thre would remain a substantial "gap" in reliable service coverage in the Applicant's network. Radio frequency coverage maps and an Affidavit of Radio Frequency Expert, provided by the Applicant and attached hereto, confirm that a wireless communications facility located at the Property is required to remedy the existing gap in the Applicant's network coverage in the area. The requested height has been determined by the Applicant's engineers to be the minimum height necessary to connect coverage from the proposed WCF with coverage from adjacent cell sites in the Applicant's network. Further the requested relief only represents a minor deviation from the height requirements and the height proposed is in keeping with the existing scale of existing features on site. Given the existence of the tower, the design of the site and size of the Property, as well as the proposed design of the WCF, the proposed installation will have a minimal visual impact to the site and surrounding neighborhood while achieving the Applicant's requisite coverage.

# 3. That the relief to be granted is desirable and will not cause substantial detriment to the public good

The proposed Facility is not a substantial detriment to the public good. Indeed, the WCF will benefit the public by increasing communication services to this area in specific, as well as the City of Gloucester as a whole. Additionally, the proposed Facility will facilitate increased emergency services. Further the location and design of the proposed facility on top of an existing tower located on a very large parcel significantly screened from view by dense vegetation almost completely mitigate any visual impacts typically associated with wireless service facilities. The proposed use complies with the Ordinance and meets the criteria for a special permit. The minor dimensional relief needed for this site is actually consistent with the overall objective of the City's ordinance that carriers utilize existing structures to the fullest extent practical in order to minimize visual impacts and reduce tower proliferation. The proposed Facility is the minimum height necessary and has been designed to be visually identical to the existing facility. The Facility will comply with the FCC with regard to RF emission standards. The proposed Facility will not have any adverse effect on the value of land and buildings in the neighborhood or on the amenities thereof. The proposed use is passive, requires no empoloyees on the premises, and has no characteristics that are incompatible with the underlying zoning district. The Facility is passive in nature and will only generate about two vehicle trips per month for maintenance, will be served by standard electrical and telephone service and will not impact any City infrastructure. The proposed Facility will not generate any noise, pollution, odor or glare.

# 4. That the relief can be granted without nullifying or substantially derogating from the intent or purpose of the zoning ordinance.

One of the clear intentions of the City's Ordinance is to reduce tower proliferation by encouraging carriers to locate wireless service facilities on existing structures. The Applicant is pleased to have identified such a structure upon which to locate its facility. Further the Applicant has taken great strides to design a facility that is consistent with the character and integrity of the existing site and tower. Three antennas will be mounted to an 8-foot extension and will be visually identical to the existing

facility. All cables will be located inside the tower and all equipment will be located inside the existing fenced compound. The design will have only a negligible impact from existing conditions on and off site.

Further, the proposed facility will benefit the residents and visitors of this area by providing enhanced wireless communication service and E-911 service to the area. Wireless use is booming in the United States. More than 80% of all Americans now subscribe to cell phone service. People of all ages rely increasingly on their cell phones to talk, text, send photos, search the Internet and more. In 2006, cell phones became the predominant way Americans communicate by phone, to keep up with this demand both wireless carriers and local governments have to keep pace with network development in order to ensure that reliable service can be delivered. Additionally, the proposed facility will enhance E-911 availability and effectiveness. Today, roughly half the 911 calls are made from a cell phone; wireless communication has become vital to public safety. In order for E911 to work effectively in an area there needs to be enough facilities throughout a community to ensure that a distressed caller's phone will have adequate signal and are sufficient to provide emergency responders with the best ability to pinpoint the location of a distressed caller.

The Applicant has demonstrated a need for coverage in the area immediately surrounding the Property. The WCF proposed is the least intrusive and only feasible means reasonably available to the applicant and consistent with the objectives of the City's Ordinance to fill its significant gap in coverage. In fact the minor deviation is actually consistent with the goals of the City's ordinances that wireless carriers collocate on existing structures, wherever possible, to reduce tower proliferation and minimize impacts to the area.

#### V. Conclusion

The Applicant hereby requests that the City Council determine that the Applicant has satisfied the requirements for both a Special Permit and a Dimensional Variance and to further determine that the proposed WCF will not have an adverse effect on the surrounding neighborhood and the City of Gloucester as a Whole. The findings are made in view of the particular unique characteristics of the Property and of the WCF's design and location, as detailed in this application. This site is an appropriate location for the installation and operation of the proposed WCF and represents the only feasible means through which the Applicant can close a significant gap in network coverage under the Ordinance.

For all of the above, the Applicant respectfully requests the City Council to grant both the Applicant's request for a Special Permit and a Dimensional Variance and /or such other relief as the Council deems necessary to allow the construction and operation of a WCF at the proposed location

Very truly yours,

Jackie Slaga

# $\frac{\text{AFFIDAVIT}}{\text{of}}$ RADIO FREQUENCY EXPERT

The undersigned, hereby states the following in support of the application of T-Mobile Northeast Inc. a wholly owned subsidiary of T-Mobile USA, Inc. (hereinafter referred to as "T-Mobile") to construct an antenna installation with related equipment cabinets at 50 New Way Ln, Gloucester, MA (The "Wireless Communications Facility"):

- 1. I am a Radio Frequency Engineer representing T-Mobile USA, Inc. and responsible for radio network design in Massachusetts.
- 2. As enabled under its Federal Communications Commission (FCC) license T-Mobile seeks to design its wireless network in order to provide reliable wireless services to its customers, whether those customers are on the street, in a vehicle, or in a building. Providing reliable service to its customers in each context is critical for T-Mobile to provide the quality of wireless service that customers demand, and to meet the objectives of Congress that a robust, competitive and low cost wireless communication capacity be developed to serve the entire nation.
- 3. I have thoroughly reviewed the radio frequency engineering studies, reports, and computer model prepared by T-Mobile with respect to the subject wireless communications facility. I used Asset, a propagation modeling software developed by Aircom Inc., to simulate the proposed coverage created by the facility. This software calculates frequency strength over distance taking into account geographical, and topographical land features and other contributors to signal loss. Finally, this calculation has also been adjusted by empiric data obtained from field measurement.
- 4. In order to meet its obligations under the radio license T-Mobile must have in place a network of base station antenna facilities to serve portable wireless communication devices and mobile telephones. These facilities consist of antennas mounted on a pole, building, or other structures that are connected by cables to a small equipment cabinet located near the antenna. These antennas transmit voice and data to subscribers within a defined area of coverage. Likewise, the antenna receives the radio signal from mobile transmitters (such as telephones) which then goes to equipment located in the cabinet and to ordinary phone lines from which the transmission may be routed anywhere in the world.
- 5. Wireless antenna facilities are integral to T-Mobile's network. Each facility, servicing only a limited area, must be carefully located so that it can properly interact with surrounding facilities. To maintain reliable, uninterrupted service to a wireless telephone user living and/or traveling in a given area serviced by multiple antenna facilities, T-Mobile depends on a continuous interconnected series of facilities, which in-part overlap in a grid or "cellular" pattern.

- 6. In compliance with its FCC license, T-Mobile is actively building its PCS network to provide service in Massachusetts. In order to meet its goal of providing reliable, seamless and uninterrupted service T-Mobile must continue to acquire interest in property for additional facilities, and is applying for and obtaining local governmental approvals to construct the facilities in order to eliminate gaps in reliable service coverage. Any delay at this point in time severely curtails T-Mobile's ability to achieve a market position that will allow it to compete for customers, which is in the public interest.
- 7. Using precise computer prediction model and following a thorough review of the RF engineering studies and reports prepared by T-Mobile it was determined that a new facility in proximity to Essex Ave and New Way Ln is critical to the overall engineering and technical plan for T-Mobile's network.
- 8. The subject location has specific characteristics, of topography, relationship to existing structures and its location within the narrow search limits specified by the above referenced computer model, makes it uniquely suitable to address T-Mobile's need for a proposed wireless telecommunications transmission facility. With the above considerations the proposed site was determined to be the most appropriate location for a facility to fill the existing gap in service coverage within the context of available land parcels provided to me for analysis.
- 9. Without a wireless transmission facility located at or near this location, a significant area of inadequate, unreliable coverage would remain in T-Mobile's wireless network in the vicinity of the proposed installation. This lack of service area or "gap" in coverage would adversely impact the service T-Mobile is able to provide to businesses and residents of Gloucester as well as travelers along Route 128, Essex Ave, and Magnolia Ave and other primary roads through and around Gloucester, MA.
- 10. The result of such a "gap" will be an inability for the T-Mobile customer to reliably initiate, receive, or maintain voice and data connections, including 911 emergency calls, from the time that subscriber leaves the service area until that subscriber reaches that point where a quality signal is available to reinitiate the communication link.
- 11. All proposed wireless communications equipment will be installed, erected, maintained and operated in compliance with all applicable Federal, State and local regulations, including, but not limited to: the radio frequency emissions regulations set forth in the 1996 Federal Communications Act, applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communications Commission (FCC), and Massachusetts Department of Health. All equipment proposed is authorized by the FCC Guidelines for Evaluating the Environmental effects of Radio Frequency Emissions. The radio frequency exposure levels generated by the proposed facility are substantially below the maximum allowable health and safety standards established by the FCC. In addition, the

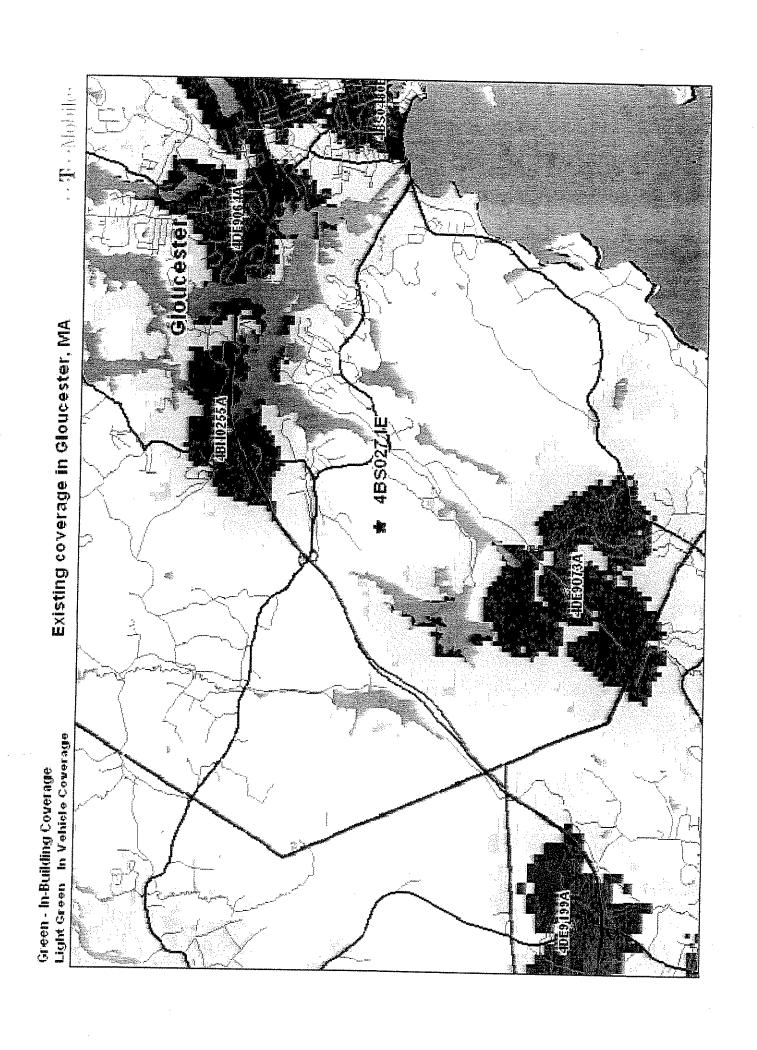
proposed equipment and transmission characteristics are in compliance with standards set forth by the American National Standards Institute (ANSI) and the National Council of Radiation Protection (NCRP).

Based upon the best radio frequency technology that is available to T-Mobile at this time, it is my professional opinion that the proposed project is necessary to ensure adequate PCS service to area residents and businesses in accordance with system specifications.

Signed under the penalties of perjury this 20<sup>th</sup> day of September, 2010.

Dishant Shah, RF Engineer

T-Mobile USA, INC. 15 Commerce Way Suite B Norton, MA 02766 (508) 286-2789 Dishant.Shah@T-Mobile.com



Green - In-Building Coverage

#### PREPARED FOR

## T-MOBILE NORTHEAST LLC

# PROPOSED WIRELESS TELECOMMUNICATIONS INSTALLATION

#### VERIZON NEW WAY LANE

56 NEW WAY LANE GLOUCESTER, MA 01930

SITE NUMBER: 4BS0271E

PROVIDED BY:
BAY STATE DESIGN, INC.
JUNE 2010



## T-MOBILE NORTHEAST LLC

#### **VERIZON NEW WAY LANE**

56 NEW WAY LANE GLOUCESTER, MA 01930

SITE NUMBER: 4BS0271E

#### Provided By:

Bay State Design, Inc. 241 Boston Post Road West Marlborough, MA 01752 ph. 508| 229.4100 fax 508| 485.5321

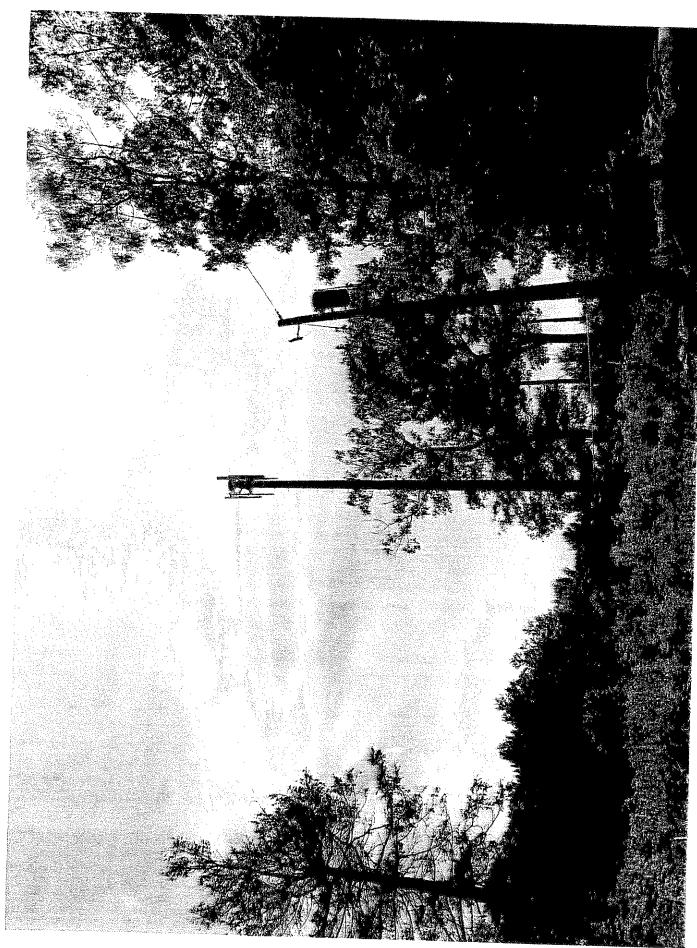
Issued: June 21, 2010 Rev. 1: Rev. 2: Drawn By: A.L. Checked By: K.B.

Note: These photo simulations are intended to represent modifications relative to a person observing the aesthetics of the proposed telecommunications installation. Therefore, they are inherently approximate in nature and should not be used as an exact, scaled; engineering drawing.

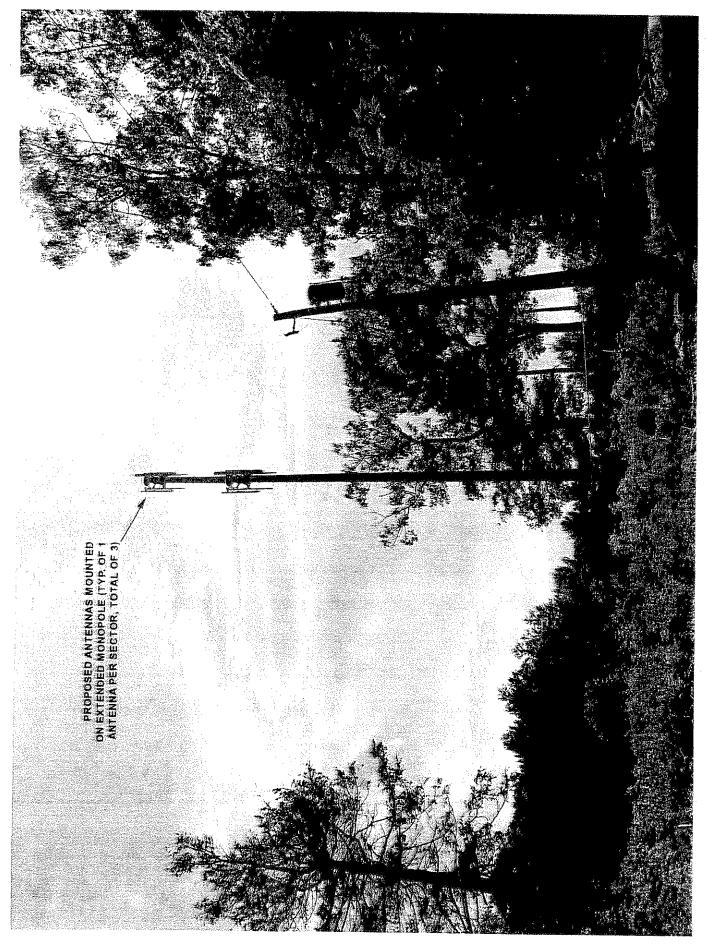


map provided by maps.google.com

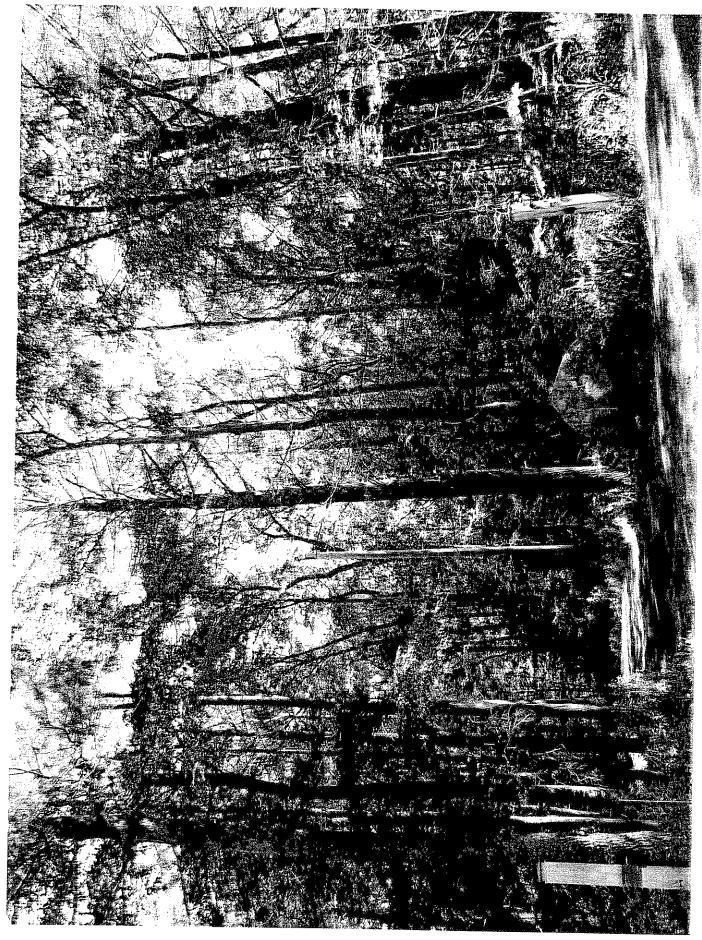
VISIBILITY MAP



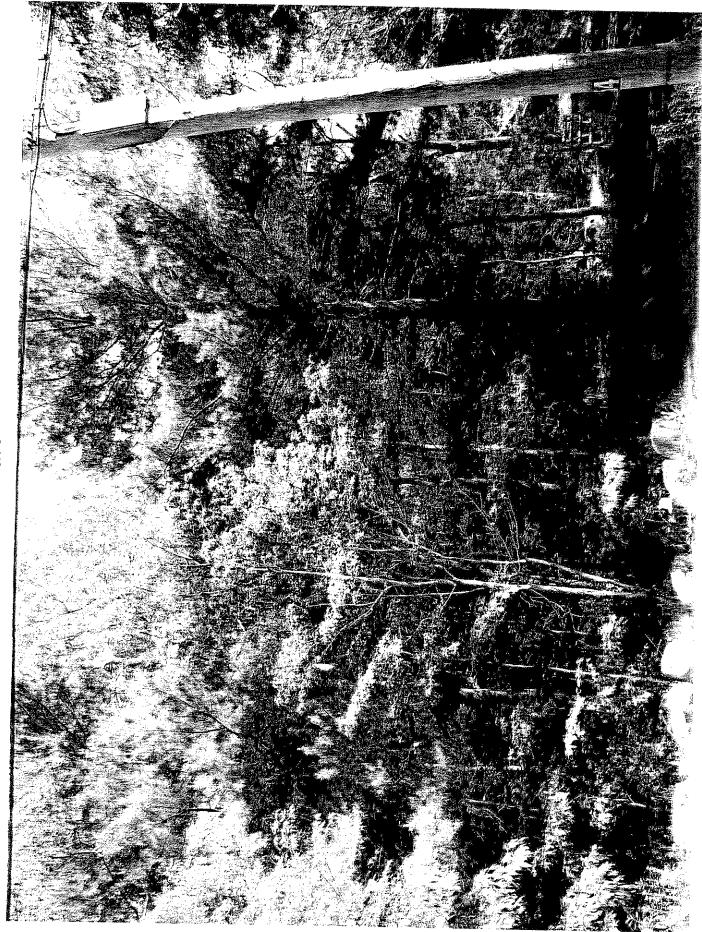
EXISTING CONDITIONS | LOOKING SOUTHWEST FROM SITE ENTERANCE



PROPOSED ANTENNAS | LOOKING SOUTHWEST FROM SITE ENTERANCE



PROPOSED ANTENNAS (NOT VISIBLE) | LOOKING SOUTHEAST FROM 50B NEW WAY LANE



PROPOSED ANTENNAS (NOT VISIBLE) | LOOKING SOUTHEAST FROM 54 NEW WAY LANE



PROPOSED ANTENNAS (NOT VISIBLE) | LOOKING SOUTHWEST FROM END OF LAROSE AVE.



# Federal Communications Commission Wireless Telecommunications Bureau Radio Station Authorization

Page 1 of 1

LICENSEE NAME: T-Mobile License LLC

DAN MENSER T-MOBILE LICENSE LLC 12920 SE 38TH ST. BELLEVUE WA 98006 FCC Registration Number (FRN)

0001565449

Call Sign File Number

KNLH3 10 0002991477

Radio Service

CW - PCS Broadband

| Grant Date            | Effective Date |                 |            |   |
|-----------------------|----------------|-----------------|------------|---|
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| 06-05-2007            | 06-05-2007     | 06-27-2017      | 06~06-2007 | ĺ |
|                       | <u> </u>       |                 |            | Į |

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|---|---------------|-----------------|-----------------------|---|
| 1 | Market Number | Channel Block   |                       | Į |
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|   | BTAO51        | E               | 0                     |   |
| ł |               |                 |                       | , |
|   |               |                 |                       |   |

Market Name: Boston, MA

| 1st Build-out Date | 2nd Build-out Date | 3rd Build-out Date |                    |
|--------------------|--------------------|--------------------|--------------------|
| 06-27-2002         |                    |                    | 4th Build-out Date |
|                    |                    |                    | 1                  |

#### SPECIAL CONDITIONS OR WAIVERS/CONDITIONS

#### Conditions:

Pursuant to Section 309(h) of the Communications Act of 1934, as amended, 47 U.S.C. Section 309(h), this license is subject to the following conditions: This license shall not vest in the licensee any right to operate the station nor any right in the use of the frequencies designated in the license beyond the term thereof nor in any other manner than authorized herein. Neither the license nor the right granted thereunder shall be assigned or otherwise transferred in violation of the Communications Act of 1934, as amended. See 47 U.S.C. Section 310(d). This license is subject in terms to the right of use or control conferred by Section 706 of the Communications Act of 1934, as amended. See 47 U.S.C. Section 606.

To view the geographic areas associated with the license, go to the Universal Licensing System (ULS) homepage at http://wireless.fcc.gov/uls and select "License Search". Follow the instructions on how to search for license information.

#### SITE LICENSE AGREEMENT

This Site License Agreement ("SLA"), entered into this 23 day of September, 2010 ("SLA Effective Date") between TOWERCO Assets LLC, hereinafter designated as LICENSOR and T-Mobile Northeast LLC, hereinafter designated as LICENSEE.

1. This SLA is a SLA as referenced in that certain Master Lease Agreement between T-MOBILE USA, INC. and TowerCo Assets LLC formerly TowerCo LLC dated August 8, 2007 ("MLA"). All of the terms and conditions of the MLA are incorporated herein by this reference and made a part hereof without the necessity of repeating or attaching the MLA. In the event of a contradiction, modification or inconsistency between the terms of the MLA and this SLA, the terms of this SLA shall govern. Capitalized terms used in this SLA shall have the same meaning described for them in the MLA unless otherwise indicated herein.

2. Site No. and Name (if applicable):

LICENSOR: MA2015 / Barletta

LICENSEE: 4BS0271E / TowerCo Collo

- Site Address and the Land which is more particularly described in Attachment 1, attached hereto and incorporated herein: 50 New Way Lane, Gloucester, MA 01930, Essex County
- 4. Site Latitude and Longitude: 42-36-42.00 / 70-43-2.40
- 5. The LICENSEE Antenna Facilities to be placed on the Property and the location of the Premises are detailed in and shall be consistent with Attachment 2, attached hereto and incorporated herein.
- 6. The term of this SLA shall be as set forth in Sections 4 and 5 of the MLA, except: (Complete, if applicable)
- 7. The Rent commencement date of the SLA shall be the first day of the month following the earlier of either; i) December 31, 2010; or ii) the receipt by LICENSEE of written notice from LICENSOR permitting LICENSEE to commence construction and upon fulfillment of the requirements delineated in Section 10(c) of the MLA.
- 8. The Rent for the initial term of this SLA shall be at an annual rental of Twenty Six Four Hundred and No/100 Dollars (\$26,400) to be paid in equal monthly installments on the first day of the month, in advance without notice or demand, to LICENSOR at the following address: PO Box 636572, Cincinnati, OH 45263-6572 or to such other person, firm or place as the LICENSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date. All Rent checks shall have LICENSOR's site number clearly written on the face of the check.
- 9. If the Property is subject to a prime lease, license or other such agreement granting LICENSOR's interest of the Property, a redacted copy of material business terms of such agreement is attached hereto as Attachment 3. If consent is required from Owner, it shall be attached hereto and incorporated herein as Attachment 4.

LICENSOR Contact for Emergency:

1-866-469-5559

11. LICENSEE Contact for Emergency:

877-611-5868

TMO Site ID: 4BN0271E Market: New England

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their respective seals the day and year first above written.

LICENSOR: TOWERCO Assets LLC

BY:

PRINT NAME:

ZÍLE: DATE:

LICENSEE: T-Mobile Northeast LLC

PRINT NAME: Mark Appel

TITLE: Area Director DATE:

#### ATTACHMENTS:

Attachment 1: Legal Description of the Land

Attachment 2: Collocation Application and Plans and Specifications

Attachment 3: Prime Lease Attachment 4: Owner's Consent Attachment 5: Memorandum of SLA

TMO Site ID: 4BN0271E Market: New England

| oath stated that he/she was autho  | ve satisfactory evidence that Iron Attivi is the and said person acknowledged that he/she signed this instrument, on orized to execute the instrument and acknowledged it as the of Interior for to be the free and voluntary purposes mentioned in the instrument.  |
|--|--|
| CHARGE ENTER STATE OF THE STATE | Notary Public Print Name My commission expires   |
| was authorized to execute the instr<br>LLC to be the free and voluntary ac<br>Dated: 9/22/10   | ) ) ss. ) ss |
| SEPH PERMITTING SEPH PERMITTIN | Notary Public Print Name My commission expires  JOSEPH PEREIRA  Notary Public Commonwealth of Massachusetts My Commission Expires January 20, 2017   |

TMO Site ID: 4BN0271E Market: New England

(Use this space for notary stamp/seal)

- 1. Premises and Use. Owner leases to Sprint Spectrum L.P., a Delaware limited partnership ("Sprint PCS"), the site described below [Check all appropriate boxes]; □ Land consisting of approximately 1,050 square feet upon which Sprint PCS will construct its 🖾 base station equipment and 🗵 antenna support structure; ☐ Building interior space consisting of approximately
- square feet for placement of base station equipment; Building exterior space consisting of approximately feet for placement of base station equipment;
  - Building exterior space for attachment of antennas; Tower space between the \_\_\_\_\_ foot and \_\_\_\_\_ foot level on the tower for attachment of antennas;

as well as space required for cable runs to connect its equipment and antennas in the location(s) shown on Exhibit A, attached hereto, together with non-exclusive easements for reasonable access thereto, for placement of an underground grounding system, and for access to the appropriate source of electric and telephone facilities, in the discretion of Sprint PCS (the "Site"). The Site will be used by Sprint PCS for the purpose of installing, removing, replacing, modifying, maintaining and operating, at its expense, a communications service facility, including, without limitation, antenna and base station equipment, cable, wiring, back-up power sources (including generators and fuel storage tanks), related fixtures and, if applicable to the Site, an antenna support structure (the "Facilities"). Sprint PCS will use the Site in a manner which will not unreasonably disturb the occupancy of Owner's other tenants, if any. Sprint PCS will have unrestricted access to the Site 24 hours per day, 7 days per week.

- 2. Term. The term of this Agreement (the "Initial Term") is 5 years, commencing on the date that both Owner and Sprint PCS have executed this Agreement ("Lease Commencement Date"). This Agreement will be automatically renewed for 4 additional terms of 5 years each (each a "Renewal Term"), unless Sprint PCS provides Owner with notice of its intention not to renew not less than 90 days prior to the expiration of the Initial Term or any Renewal Term.
- 3. Rent. Until the date which is 60 days after the issuance of a building permit, or if no building permit is required, the date that is 60 days after the date Sprint PCS commences installation of the Facilities at the Site ("Rent Commencement Date"), rent will be a one-time aggregate payment the receipt of which Owner acknowledges. Thereafter, rent will be pand in advance in equal monthly installments until increased as set forth herein), partial months to be prerafed. Rent for each Renewal Term will be increased on the anniversary of the Lease Commencement Date to an amount equal to 110% of the rental rate in effect for the prior Term. Notwithstanding anything contained in this Section, Sprint PCS' obligation to pay rent is contingent upon Sprint PCS' receipt of a W-9 form setting forth the tax identification number of Owner or of the person or entity to whom rent checks are to be made payable as directed in writing by Owner.
- 4. Title and Quiet Possession. Owner represents and warrants to Sprint PCS and further agrees that: (a) it is the owner of the Site; (b) it has the right to enter into this Agreement; (e) the person signing this Agreement has the authority to sign; (d) Sprint PCS is entitled to access the Site at all times and to the quiet possession of the Site throughout the Initial Term and each Renewal Term 50 long as Sprint PCS is not in default beyond the expiration of any cure period; and (e) Owner will not have unsupervised access to the Site or to the Facilities
- 5. Assignment/Subletting. Sprint PCS will have the right to sublease the Site or assign its rights under this Agreement without notice to or consent of Owner.
- 6. Notices. All notices must be in writing and are effective only when deposited in the U.S. mail, certified and postage prepaid, or when sent via overnight delivery. Notices to Sprint PCS are to be sent to: Sprint PCS, 15500 W. 113th Street, Lenexa, KS 66219, Mailstop: KSLNXCo201, Attn.: Director, National Property & Lease Management, with a copy to Sprint Law Department, 6391 Sprint Parkway, Maistop KSOPHTotot-Z2020, Overland Park, Kansas 66251-2020, Attn.: Sprint PCS Real Estate Attorney. Notices to Owner must be sent to the address shown underneath Owner's signature.

- Improvements. Sprint PCS may, at its expense, make improvements on the Site as it deems necessary or desirable from time to time for the operation of the Facilities. Owner agrees to cooperate with Sprint PCS with respect to obtaining any required zoning or other governmental approvals for the Site and the Facilities. Upon termination or expiration of this Agreement, Sprint PCS may remove the Facilities and will restore the Site to substantially the condition existing on the Lease Commencement Date, except for ordinary wear and tear and casualty loss.
- 8. Compliance with Laws. Owner represents and warrants to Sprint PCS that Owner's property (including the Site), and all improvements located thereon, are in substantial compliance with building, life/safety, disability and other laws, codes and regulations of applicable governmental authorities. Sprint PCS will substantially comply with all applicable laws relating to its possession and use of the
- 9. Interference. Sprint PCS will resolve technical interference problems with other equipment located at the Site on the Lease Commencement Date or any equipment that becomes attached to the Site at any future date when Sprint PCS desires to add additional equipment to the Site. Likewise, Owner will not permit or suffer the installation of any equipment after the Lease Commencement Date that: (a) results in technical interference problems with the Facilities; or (b) encroaches onto the Site.
- 10. Utilities. Owner represents and warrants to Sprint PCS that all utilities adequate for Sprint PCS' use of the Site are available at or near the Site. Sprint PCS will pay for all utilities used by it at the Site. Owner will cooperate with Sprint PCS in Sprint PCS efforts to obtain utilities from any location provided by Owner or the servicing utility, including signing any easement(s) or other instrument(s) reasonably required by the utility company. If there is a loss of electrical service at the Site, Sprint PCS may, at its expense, install and maintain a temporary generator and fuel storage tank at the Site or the property adjacent to the Site at the location depicted in Exhibit A.
- 11. Termination. Notwithstanding any provision contained in this Agreement, Sprint PCS may, in Sprint PCS sole and absolute discretion and at any time and for any or no reason, terminate this Agreement without further liability by delivering prior written notice to
- 12. Default. If either party is in default under this Agreement for a period of 30 days following receipt of written notice from the nondefaulting party, the non-defaulting party may pursue any remedies available to it against the defaulting party at law or in equity, including, but not limited to, the right to terminate this Agreement. If a nonmonetary default cannot reasonably be cured within a 30-day period, this Agreement may not be terminated if the defaulting party commences action to cure the default within the 30-day period and proceeds with due diligence to fully cure the default.
- 13. Indemnity. Subject to Section 17 hereof, Owner and Sprint PCS each indemnifies and agrees to defend the other against and holds the other harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the ownership, use and occupancy of the Site by the indemnifying party. This indemnity does not apply to any claims arising from the negligence or intentional misconduct of the indemnified party. The indemnity obligations under this Section will survive termination of this Agreement.
- 14. Hazardous Substances. Owner represents and warrants to Sprint PCS that it has no knowledge of any substance, chemical, waste, oil or hazardous material on the Site or any adjacent real estate owned by the Owner (collectively, "Premises") that is identified as hazardous, toxic or dangerous (collectively, "Substance") in any applicable federal. state or local law or regulation. Sprint PCS will not introduce or use any Substance on the Site in violation of any applicable law. Owner will have sole responsibility for the identification, investigation, monitoring and remediation and/or cleanup of any Substance discovered at the Site unless the presence or release of the Substance is caused by the activities of Sprint PCS. Owner hereby indemnifies Sprint PCS and holds Sprint PCS harmless from any and all costs (including reasonable attorney fees) and claims of liability or loss which arise out of the Owner Initials (\$\frac{1}{2}\) Owner Initials (\$\frac{1}{2}\) Owner Initials (\$\frac{1}{2}\) Owner Initials (\$\frac{1}{2}\)

between the parties and supersedes all prior written and verbal

agreements, representations, promises or understandings between the

parties. Any amendments to this Agreement must be in writing and

executed by both parties; (e) if any provision of this Agreement is

invalid or unenforceable with respect to any party, the remainder of

this Agreement or the application of the provision to persons other

than those as to whom it is held invalid or unenforceable, will not be

affected and each provision of this Agreement will be valid and

presence of any Substance on or migrating from the Premises at any time, other than those Substances which were first released by Sprint PCS upon the Premises, and Owner hereby agrees to execute any hazardous materials disposal manifests and all related documentation reasonably requested by Sprint PCS in connection with the removal and disposal of any such Substance from the Premises. Sprint PCS will have sole responsibility for the identification, investigation, monitoring and remediation and/or cleanup of any Substance released on the Site by Sprint PCS. Sprint PCS hereby indemnifies Owner and holds Owner harmless from any and all costs (including reasonable attorneys' fees) and claims of liability or loss which arise out of the release of any Substance by Sprint PCS upon the Premises. Upon obtaining knowledge of a release or threat of release of any Substance on the Premises, Sprint PCS and the Owner shall each have the right to notify the applicable regulatory authorities thereof without the prior consent of the other party and to provide reasonable access to the Site to the employees, agents, and contractors of such agencies and all other persons conducting response actions in accordance with applicable law. The foregoing indemnifications shall survive any termination of this Agreement and shall be in addition to any other rights which Owner or Sprint PCS may have under applicable law.

- 15. Subordination and Non-Disturbance. This Agreement is subordinate to any mortgage or deed of trust of record against the Site as of the Lease Commencement Date. Promptly after this Agreement is fully executed, however, Owner will obtain a non-disturbance agreement in a form reasonably acceptable to Sprint PCS from the holder of any mortgage or deed of trust.
- 16. Property Taxes. Sprint PCS will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the Facilities on the Site. Sprint PCS will pay to Owner any increase in real property taxes attributable solely to any improvements to the Site made by Sprint PCS within 60 days after receipt of satisfactory documentation indicating calculation of Sprint PCS' share of the real estate taxes and payment of the real estate taxes by Owner. Owner will pay when due all other real estate taxes and assessments attributable to the property of Owner of which the Site is a part.
- 17. Insurance. Sprint PCS will procure and maintain commercial general liability insurance, with limits of not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage liability, with a certificate of insurance to be furnished to Owner within 30 days after Sprint PCS' receipt of a written request. Each party hereby waives its right of recovery against the other for any loss or damage covered by any insurance policies maintained by the waiving party. Each party will cause each insurance policy obtained by it to provide that the insurance company waives all rights of recovery by subrogation against the other party in connection with any damage covered by the policy.
- 18. Maintenance. Sprint PCS will be responsible for repairing and maintaining the Facilities and any other improvements installed by Sprint PCS at the Site in a proper operating and reasonably safe condition; provided, however, if any repair or maintenance is required due to the acts or omissions of Owner, its agents, contractors or employees, Owner will promptly reimburse Sprint PCS for the reasonable costs incurred by Sprint PCS to restore the damaged areas to the condition which existed immediately prior thereto. Owner will maintain and repair all other portions of the property of which the Site is a part in a proper operating and reasonably safe condition.
- 19. Miscellaneous. (a) This Agreement applies to and binds the heirs, successors, executors, administrators and assigns of the parties to this Agreement; (b) this Agreement is governed by the laws of the state in which the Site is located; (c) Owner agrees to promptly execute and deliver to Sprint PCS a recordable Memorandum of Agreement in the form of Exhibit B, attached hereto; (d) this Agreement (including the Exhibits) constitutes the entire agreement

Attach Exhibit A - Site Description
Attach Exhibit B - Memorandum of Agreement Form

| enforceable to the fullest extent permitted by law; and (f) the prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Agreement is entitled to receive its reasonable attorneys' fees and other reasonable enforcement costs and expenses from the non-prevailing party.  20. Non-Binding Until Fully Executed. This Agreement is for discussion purposes only and does not constitute a formal offer by either party. This Agreement is not and will not be binding on either party until and unless it is fully executed by both parties. |
|---|
| The following Exhibits are attached to and made a part of this Agreement: Exhibits A, B. Rider  |
| Address: 127 Eastern Ave., Box 254  Gloucester, MA 01930  Date: /// 2 / a 2-  |
| s.s. #: 046-50-7753   |
| · Address: 127 Eastern Avc., Box 254<br>Gloucester, MA 01930  |
| Date: 11/12/32  |
|   |

Sprint Spectrum-L.P., a Delaware limited partnership

Address: One International Boulevard, Suite 800

Attention; Lease Management

Mahwah, NJ 07945

Director, Site Development - Northeast Region

SPRINT PCS:

Date:

| 86386 <sup>7</sup> |
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| SERVICE<br>SERVICE |
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| Signs              |
|                    |

| Abutters To Parcel MAP 221 LOT 46         |  | Please be aware that the abutters<br>Mortgage companies, banks and<br>Please be sure you are complying<br>Gloucester Board of Assessors | Please be aware that the abutters list reflects mailing addresses for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements. Gloucester Board of Assessors |
|---|--|---|---|
|   | Addr   | Parcel No.  | ess Parcel No. Mailing Address  |
| GLOUCESTER CITY OF                        | NEAR DYKES PD  | 221 7   | CITY HALL 9 DALE AV   |
| 2 221 8<br>GLOUCESTER CITY OF             | 60 NEW WAY LN  | 271 8   | GLUUCESTER MA 01930   |
|   |  |   | 9 DALE AV   |
| 3 221 9<br>PERRY JOHN                     | 56 NEW WAY LN  | 221 9   | GEOOCESTER MA U1930   |
| 4 221 10                                  |  | ;;  | GLOUCESTER MA 01930   |
| LOGRANDE GAETANO S LOGRANDE ST            | 54 NEW WAY LN  | 221 10  | 54 NEW WAY LN   |
| S 221 11                                  |  | Į   | GLOUCESIER MA 01930 0000  |
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| 8 721 30                                  | discussion and proposed in the second se | ***************************************   | 17 LAROSE AV<br>GLOUCESTER MA 01930   |
| AIGHT D                                   | 18 LAROSE AV   | 221 38  |   |
|   |  |   | 18 LAROSE AV  |
| 9 221 39<br>GARRON CHRISTINE C            | 20 LAROSE AV   | 221 39  | 20 LAROSE AV  |
| 10 221 40<br>GOBIEL ARTHUR J & JACQUELINE | 40 NEW WAY LN  | 221 40  | GLOUCESTER MA 01930 0000  |
| 11 221 45                                 |  |   | 40 NEW WAY LN<br>GLOUCESTER MA 01930  |
| BARLETTA RICHARD & MARTIN MARCIA          | 52 NEW WAY LN  | 221 45  | C/O AURORA LOAN SERVICES LLC<br>2617 COLLEGE PARK DR<br>SCOTSBLUFF NE 69361   |
| 10/25/2010 1:20:46PM                      |  |   | Page 1 of 2   |

Page 1 of 2

| Abutters To Parcel MAP 221 LOT 46  | т 46   | Please be aware that the abutters I<br>Mortgage companies, banks and o<br>Please be sure you are complying<br>Gloucester Board of Assessors  | Please be aware that the abutters list reflects mailing addresses for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements. Gloucester Board of Assessors. |
|--|--|--|--|
|  | s control deservice a gradient service de Street Address | Pomposopologica de la maria della maria de | Parcel No. Mailing Address   |
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| I VIOLED TO THE PROPERTY OF TH | 46 NEW WAY LN  | 221 47   | C/O WATERMAN STEFANI M<br>48 NEW WAY I N   |
| And the second s |  |  | GLOUCESTER MA 01930  |

BOARD OF ASSESSORS CITY HALL 9 DALE AVENUE GLOUCESTER, MA 01930



#### CITY OF GLOUCESTER FIRE DEPARTMENT 8 SCHOOL ST. GLOUCESTER, MA 01930 978-281-9760



10:J.Du66AN 11:15:10

RECEIVED

NOV 15 2010

November 12, 2010

Mayor's Office

Mayor Carolyn Kirk City Of Gloucester 9 Dale Ave. Gloucester, MA. 01930

Mayor Kirk,

In accordance with Chapter 148, Section 13 of the Massachusetts General Laws, and 527 C.M.R. 9 of the Board of Fire Prevention Regulations, I am requesting the City Council revoke the following Storage Tank licenses approved for the facility formerly known as Bickford's Marina at 31 Rocky Neck Ave., Gloucester:

- 1. Granted 5/16/1928, 1500 gallons
- 2. Granted 9/26/1951, 1000 gallons
- 3. Granted 5/28/1958, 2000 gallons
- 4. Granted 6/22/1961, 10,000 gallons

I have attached a correspondence from the Massachusetts Department of Revenue Underground Storage Tank Program that details that this facility is no longer operating as a motor fuel dispensing facility. It is my understanding that the storage tanks have been removed from this site.

Please feel free to contact me should have any questions regarding this matter.

Sincerely.

Stephen Aiello, Deputy Chief Gloucester Fire Department Blatman, Bobrowski & Mead, LLC

ATTORNEYS AT LAW

9 Damonmill Square, Suite 4A4 Concord, MA 01742 Phone: 978-371-2226 Fax: 978-371-2296 GLOUCESTER. MA

Newburyport Office 44 Merrimac Street Newburyport, MA 01950 Phone: 978-463-7700

Fax: 978-463-7747

ADAM J. COSTA adam@bbmatlaw.com

Via Certified Mail, Return Receipt Requested

November 12, 2010

Bill Sanborn, Inspector of Buildings Inspectional Services Department City of Gloucester 3 Pond Road Gloucester, Massachusetts 01930

Re:

Extension of Special Permit under the Permit Extension Act of 2010 201, 205 and 233 Main Street (a.k.a. Main Street Plaza)

Dear President Hardy and Members of the Council:

Reference is made to the above-cited matter. In that connection and as you are aware, my firm represents 1907, LLC (the "Applicant"), the recipient of a Major Project Special Council Permit (the "Permit") for the Main Street Plaza property located at 201, 205 and 233 Main Street in Gloucester (the "Property"). The Permit was issued by the Council on March 20, 2007, and subsequently extended on April 7, 2009 and on April 27, 2010.

The latest of the aforesaid extensions was conditioned so as to expire on October 13, 2010, if the 1,500-square-foot building on the Property was not completed by said deadline. However, please be advised that the Permit Extension Act of 2010, adopted by the Legislature and signed into law on August 5, 2010 as Chapter 240 of the Acts of 2010 (the "Act"), has further extended expiration of the Permit to October 13, 2012. According to the Act, "an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval."

For the purposes of the Act, an "approval" is "any permit, certificate, order. ... license, certification, determination, exemption, variance, waiver, building permit or other approval or determination of rights from any municipal, regional or state governmental entity," with few exceptions, none of which are relevant hereto. The "tolling period" runs from August 15, 2008 through August 15, 2010. Here, the Permit both qualifies as an "approval" and was in effect and existence during the aforesaid, two-year "tolling period."

As a consequence of the foregoing, further extension of the Permit is not required at the present time. I am notifying you of the same as a courtesy to the Council, and for clarity of the City's records pertaining to the Property.

Thank you. Should you have any questions or concerns, please do not hesitate to contact me at (978) 371-2163.

Sincerely,
Adam J. Costa

AJC/fhs

cc: L. Mead, Esq.

L. Lowe, City Clerk (via first-class mail only) -

S. Eagan, City Solicitor (via first-class mail only)

Client (via e-mail only)

Acts

2010

CHAPTER 240 AN ACT RELATIVE TO ECONOMIC DEVELOPMENT REORGANIZATION. (see Senate, No. 2582) Approved (in part) by the Governor, August 5, 2010

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith a business-friendly environment that will stimulate job growth and improve the ease with which businesses can operate in the markets they serve, and to coordinate economic development activities funded by the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

**SECTION 1:** To provide for a program of infrastructure development and improvements, the sums set forth in section 2B for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds and approval thereof.

#### SECTION 2B.

**SECTION 3.** Section 16G of chapter 6A of the General Laws as is hereby amended by striking out, in lines 2 and 3, as appearing in the 2008 Official Edition, the words ?a department? and inserting in place thereof the following words: the Massachusetts office.

**SECTION 4.** Said section 16G of said chapter 6Ais hereby further amended by striking out subsections (i) and (j), as so appearing, and inserting in place thereof the following 2 subsections:-

(i) The secretary shall establish in the executive office an office of performance management and oversight. The secretary shall appoint a director to operate and administer said office who shall have experience with economic

SECTION 170. The secretary of housing and economic development, in consultation with the economic assistance coordinating council, shall promulgate regulations that reflect the changes implemented in section 74A of this act.

**SECTION 171.** Notwithstanding any other general or special law to the contrary, the pension reserves investment management board established under section 23 of chapter 32 of the General Laws shall review its investment portfolio and to the extent it is reasonably possible it shall invest not less than \$25,000,000 and not more than \$50,000,000 in banks or financial institutions which make capital available to small businesses under the guidelines of subdivision (7) of section 23 of chapter 32 of the General Laws and shall make such investment a priority of the portfolio as long as such investment is consistent with sound investment policy.

SECTION 172. To meet the expenditures necessary in carrying out section 2B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$75,000,000. All such bonds issued by the commonwealth shall be designated on their face, Job Creation by Small Business Act of 2010, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2045. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.



**SECTION 173.** Notwithstanding any general or special law to the contrary, certain regulatory approvals are hereby extended as provided in this section.

(a) For purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

?Approval? except as otherwise provided in subsection (b), any permit, certificate, order, excluding enforcement orders, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality of the municipal, regional or state governmental entity, concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law or ordinance.

?Development?, division of a parcel of land into 2 or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of a building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

?Tolling period?, the period beginning August 15, 2008, and continuing through August 15, 2010.

- (b) (1) Notwithstanding any general or special law to the contrary, an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval.
- (2) Nothing in this section shall be deemed to extend or purport to extend:
  - (i) a permit or approval issued by the government of the United States or an agency or instrumentality of the government of the United States or to a permit or approval, of which the duration of effect or the date or terms of its expiration are specified or determined by or under law or regulation of the federal government or any of its agencies or instrumentalities;
  - (ii) a comprehensive permit issued by a board of appeals under sections 20 to 23, inclusive, of chapter

40B of the General Laws; or;

- (iii) a permit, license, privilege or approval issued by the division of fisheries and wildlife under chapter 131 for hunting, fishing or aquaculture.
- (3) Nothing in this section shall affect the ability of a municipal, regional or state governmental entity, including an agency, department, commission or other instrumentality of a municipal, regional or state governmental entity to revoke or modify a specific permit or approval or extension of a specific permit or approval under this section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.
- (4) In the event that an approval tolled under this section is based upon the connection to a sanitary sewer system, the approval?s extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the effective date of this section. Priority regarding the distribution of further gallonage to a permit holder who has received the extension of an approval under this section shall be allocated in order of the granting of the original approval of the connection.
- (5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for an approval to receive an extension, all commitments made by the original owner or petitioner under the terms of the permit must be upheld by the new owner or petitioner. If the new owner or petitioner does not meet or abide by those commitments then the approval shall not be extended under this section.
- (6) Nothing in this section shall be construed or implemented in such a way as to modify a requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.
- **SECTION 174.** Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, an excise shall not be imposed upon nonbusiness sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. For the purposes of this act, tangible personal property shall not include telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.
- SECTION 175. Notwithstanding any general or special law to the contrary, for the days of August 14, 2010 and August 15, 2010, a vendor shall not add to the sales price or collect from a nonbusiness purchaser an excise upon sales at retail of tangible personal property, as defined in section 1 of chapter 64H of the General Laws. The commissioner of revenue shall not require a vendor to collect and pay excise upon sales at retail of tangible personal property purchased on August 14, 2010 and August 15, 2010. An excise erroneously or improperly collected during the days of August 14, 2010 and August 15, 2010, shall be remitted to the department of revenue. This section shall not apply to the sale of telecommunications, tobacco products subject to the excise imposed by chapter 64C of the General Laws, gas, steam, electricity, motor vehicles, motorboats, meals or a single item the price of which is in excess of \$2,500.
- **SECTION 176.** Reporting requirements imposed upon vendors of tangible personal property, by law or by regulation, including, but not limited to, the requirements for filing returns required by chapter 62C of the General Laws, shall remain in effect for sales for the days of August 14, 2010, and August 15, 2010.
- SECTION 177. On or before December 31, 2010, the commissioner of revenue shall certify to the comptroller the amount of sales tax forgone, as well as new revenue raised from personal and corporate income taxes and other sources, pursuant to this act. The commissioner shall file a report with the joint committee on revenue and the house and senate committees on ways and means detailing by fund the amounts under general and special laws governing the distribution of revenues under chapter 64H of the General Laws which would have been deposited in each fund, without this act.



#### CITY OF GLOUCESTER FIRE DEPARTMENT 8 SCHOOL ST. GLOUCESTER, MA 01930 978-281-9760



10: J. Du66AN 11:15:10

RECEIVED

NOV 15 2010

November 12, 2010

Mayor's Office

Mayor Carolyn Kirk City Of Gloucester 9 Dale Ave. Gloucester, MA. 01930

Mayor Kirk,

In accordance with Chapter 148, Section 13 of the Massachusetts General Laws, and 527 C.M.R. 9 of the Board of Fire Prevention Regulations, I am requesting the City Council revoke the following Storage Tank licenses approved for the facility formerly known as Bickford's Marina at 31 Rocky Neck Ave., Gloucester:

- 1. Granted 5/16/1928, 1500 gallons
- 2. Granted 9/26/1951, 1000 gallons
- 3. Granted 5/28/1958, 2000 gallons
- 4. Granted 6/22/1961, 10,000 gallons

I have attached a correspondence from the Massachusetts Department of Revenue Underground Storage Tank Program that details that this facility is no longer operating as a motor fuel dispensing facility. It is my understanding that the storage tanks have been removed from this site.

Please feel free to contact me should have any questions regarding this matter.

Sincerely,

Stephen Aiello, Deputy Chief Gloucester Fire Department



DEVAL L. PATRICK GOVERNOR

NAVJEET K. BAL

# The Commonwealth of Massachusetts Department of Revenue Underground Storage Tank Program

100 Cambridge Street, 7th Floor Boston, Massachusetts 02114 (617) 626-2600 Fax: (617) 626-2619

October 20, 2010

Via Certified Mail 7002 2410 0001 8604 3284

BICKFORD MARINA 31 Rocky Neck Ave Gloucester, MA 01930

Re: Certificate of Compliance Renewal - Ineligibility Status UST Facility No. 5137; BICKFORD MARINA INC 31 Rocky Neck Ave, Gloucester, MA 01930

Dear UST Owner/Operator:

Our records indicate that the above-referenced motor fuel dispensing facility no longer operates as an active underground storage tank (UST) facility (i.e. USTs have been removed and not replaced, or have been closed in place in accordance with the Massachusetts State Fire Code; 527 CMR 9.00).

Accordingly, your Certificate of Compliance (COC) has been deemed "ineligible" to be renewed and your COC file is hereby closed. If you decide to install new USTs at this facility in the future, you may re-apply for a COC provided you submit a Board Acceptable Site Assessment (BASA) with your COC application.

You may continue to file claims for Release Tracking Numbers for which a UST Eligible Release Number has been assigned. Any new Release Tracking Numbers must have an Application for Eligibility submitted within 365 days of the tank removal, and within 180 days of the release being reported to MassDEP.

If you disagree with this determination, please file a Request for Reconsideration within sixty (60) days of receipt of this notice. Should you have any questions regarding this matter, please contact Compliance Officer Philip J. O'Sullivan at (617) 626-2604.

Very truly yours,

Gordon H. Bullard Executive Director

GHB/pjo

cc: Gloucester Fire Department 1

File



# CITY OF GLOUCESTER

GLOUCESTER · MASSACHUSETTS · 01930

OFFICE OF THE CITY CLERK

April 26, 1990

THIS IS TO CERTIFY THAT ACCORDING TO THE RECORDS IN THE OFFICE OF THE CITY CLERK, THE CITY COUNCIL ON (see dates below) GRANTED A LICENSE TO FORTEST A. Bickford\* FOR THE STORAGE OF FLAMMABLE LIQUIDS IN ACCORDANCE WITH CHAPTER 148, SECTION 13 OF THE GENERAL LAWS.

ATTEST:

FRED J. KYROUZ, City Clerk

\*RE: BICKFORD MARINA, INC., 31 Rocky Neck Avenue, Gloucester

Granted 5/16/28 to Forrest A. Bickford: 1 - 1,000 gal. & 1 - 500 gals. gasoline.

Granted 9/26/51 to Alan G. Hill, Jr.: 1,000 gals. gasoline.

Granted 5/22/58 to Alan G. Hill, Jr. dba Bickford Boat Service: 2,000 gals. gasoline.

Granted 6/22/61 to Stephen O. Cluett: additional 10,000 gals. gasoline underground.

TOTAL storage: 14,500 gallons



| The Commonwed | ulth of Massachusetts |
|---------------|-----------------------|
| City/Town of_ | Gloucester            |

## **Application For License**

Massachusetts General Law, Chapter 148 §13

New License

Total quantity of all flammable solids to be stored:

|     | Amended   | Y |     |      |    |
|-----|-----------|---|-----|------|----|
| 1 6 | Amended   | Ŀ | 1.0 | A+11 | 70 |
| -   | ZXXXVXXUU | Ŀ | -11 |      |    |

| (                                       | GIS Coordinates |
|---|-----------------|
|   | LAT.            |
|   | LONG.           |
| *************************************** | License Number  |

Application is hereby made in accordance with the provisions of Chapter 148 of the General Laws of Massachusetts for a license to store flammables, combustibles or explosives on land in buildings or structures herein described. Location of Land: 54 Great Republic Drive Public Drive Assessors Map/Parcel ID: 263 65

Vumber, Street and Assessor's Map and Parcel ID Attach a plot plan of the property indicating the location of property lines and all buildings or structures. Owner of Land: Bearcat Realty LLC, Peter Spinney, Manager Address of Land Owner: 22 Salt Marsh Lane, Gloucester, MA 01930 occupancy by: Anchor-Seal, Inc. Use and Occupancy of Buildings and Structures: custom formulation of epoxy resins & polyurethanes If this is an application for amendment of an existing license, indicate date of original license and any subsequent amendments Attach a copy of the current license Flammable and Combustible Liquids, Flammable Gases and Solids Complete this section for the storage of flammable and combustible liquids, solids, and gases; see 527 CMR 14; Attach additional pages if needed. All tanks and containers are considered full for the purposes of licensing and permitting. PRODUCT NAME **CLASS** MAXIMUM UNITS CONTAINER QUANTITY gal., lbs. UST, AST, IBC, Cubic feet drums liquid plastic N.O.S. IIIB 29,000 drum, IBC Total quantity of all flammable liquids to be stored: Total quantity of all combustible liquids to be stored: 29,000 gal. Total quantity of all flammable gases to be stored:

|                                     | See 527 CMR 6)  Maximum quantity (in gallons) of LP-gas to be stored  | red in aboveground containers:  |  |  |  |  |
|-------------------------------------|---|---|--|--|--|--|
|                                     | List sizes and capacities of all aboveground containers used for storage:   |   |  |  |  |  |
| +3                                  | Maximum quantity (in gallons) of LP-gas to be stored  | Maximum quantity (in gallons) of LP-gas to be stored in underground containers:   |  |  |  |  |
|                                     | List sizes and capacities of all underground containers used for storage:   |   |  |  |  |  |
|                                     | Total aggregate quantity of all LP-gas to be stored:  |   |  |  |  |  |
| rev                                 | vorks (Complete this section for the storage of firew   | orks)   |  |  |  |  |
|                                     | ndicate classes of fireworks to be stored and m  Maximum amount (in pounds) of Class 1.3G:  | naximum quantity of each class. (See 527 CMR 2)  Type/class of magazine used for storage:   |  |  |  |  |
| *                                   | Maximum amount (in pounds) of Class 1.4G:   | Type/class of magazine used for storage:  |  |  |  |  |
| 4                                   | Maximum amount (in pounds) of Class 1.4:  | Type/class of magazine used for storage:  |  |  |  |  |
|                                     | Total aggregate quantity of all classes of fireworks  | s to be stored:   |  |  |  |  |
| <u>kple</u>                         | osives (Complete this section for the storage of explo  | sives)  |  |  |  |  |
| Ind                                 | licate classes of explosive to be stored and ma   | aximum quantity of each class. (See 527 CMR 13)   |  |  |  |  |
| ***                                 | Maximum amount (in pounds) of Class 1.1:  | Number of magazines used for storage:   |  |  |  |  |
| <b>4</b> ,4                         | Maximum amount (in pounds) of Class 1.2:  | Number of magazines used for storage:   |  |  |  |  |
| **                                  | Maximum amount (in pounds) of Class 1.3:  | Number of magazines used for storage:   |  |  |  |  |
| •,•                                 | Maximum amount (in pounds) of Class 1.4:  | Number of magazines used for storage:   |  |  |  |  |
| ***                                 | Maximum amount (in pounds) of Class 1.5:  | Number of magazines used for storage:   |  |  |  |  |
| ***                                 | Maximum amount (in pounds) of Class 1.6:  | Number of magazines used for storage:   |  |  |  |  |
| inf<br>mat<br>vs, c<br>de (<br>y no | formation contained herein is accurate and completerials stored pursuant to any license granted here codes, rules and regulations, including but not lim 527 CMR). I further acknowledge that the storage of exceed the maximum quantity specified by the | nat I am authorized to make this application. I acknowledge that ete to the best of my knowledge and belief. I acknowledge that under must be stored or kept in accordance with all applicable ited to Massachusetts Chapter 148, and the Massachusetts Fire e of any material specified in any license granted hereunder license.  /10 Name Peter E. Spinney, President Anchor-Seal Inc. |  |  |  |  |
| estical charte                      |   |   |  |  |  |  |
| *:                                  | expartment Use Only   |   |  |  |  |  |
|                                     | ph Mountain, Head of the Clou   | Fire Department endorse this application with my  |  |  |  |  |
| 05                                  |   |   |  |  |  |  |
|                                     | proval Disapproval  Application Fire Department  The ad of the Fire Department  |   |  |  |  |  |

<u>LP-gas</u> (Complete this section for the storage of LP-gas or propane)

# A GUIDE FOR MUNICIPAL OFFICIALS ON LICENSING THE STORAGE OF FLAMMABLES, COMBUSTIBLE and EXPLOSIVES

#### Licenses, Registrations and Permits

The purpose of this document is to provide guidance to fire departments, local licensing authorities, and municipal clerks on licenses, registrations and permits for the storage of flammable, combustible, or explosive materials in accordance with Massachusetts General Law (MGL) Chapter 148 and the Board of Fire Prevention Regulations, Code of Massachusetts Regulation (CMR), 527 CMR 2.00, 527 CMR 6.00, 527 CMR 9.00, 527 CMR 13.00, 527 CMR 14.00.

- A license is the permission by competent authority to do an act which, without such permission, would be unlawful, a trespass, or a tort. A storage license is applied for and granted by the local licensing authority. The license is granted to the land and not to an individual. Only one license may be issued to a parcel of land. This license may be amended to reflect changes in quantity, conditions or restrictions. The license may be revoked or suspended for cause by the issuing authority. Information pertaining to the license and the license shall be maintained by the city or town clerk.
- A registration is the acknowledgement by competent authority of the act of recording a formal or official record. A storage registration is filed annually with the local city or town clerk. The registration serves solely to notify the community of the present license holders name and address. Only one registration may be granted for each license. Records of registration shall be maintained by the city or town clerk.
- A permit is a written authority or warrant, issued by a person in authority, empowering a person to do some act not forbidden by law but not allowable without such grant of authority. The law allows certain small quantities of flammable and combustibles to be kept or stored on the land without a license, but with a permit granted by the head of the fire department. 527 CMR 14 requires a permit in addition to the license.

The following are definitions related to the terms "flammable or combustible". 1

Combustible liquid: Any liquid having a flash point at or above 100°F shall be known as a Class II or Class III Liquid. Combustible liquids shall be divided into the following classifications:

Class II: Liquids having flash points at or above 100° and below 140°F. Class IIIA: Liquids having a flash point at or above 140°F and below 200°F.

Class IIIB: Liquids having a flash point at or above 200°F.

Flammable Liquids: Any liquid having a flash point below 100° F and having a vapor pressure not exceeding 40 psia at 100°F. Flammable liquids shall be known as Class I liquids and shall be divided into the following classifications.

Class IA: Liquids having flash points below 73°F and having a boiling point below 100°F.

Class IB: Liquids having flash points below 73°F and having a boiling point at or above 100°F.

Class IC: Liquids having flash points at or above 73°F and below 100°F.

The authority for the keeping and storage of flammables, combustibles, and explosives, is section 13, of Chapter 148, M.G.L. This General Law is rather lengthy; this document references only the relevant sections. In order to apply for a new license or to change the conditions or restrictions of an existing license, the applicant must apply for approval or disapproval from the head of the local fire department. Whether the local fire official approves or disapproves the application, the next step is a public hearing on the application. Not less than seven days prior to a public hearing it must be advertised in a newspaper published in the English language. At the applicants expense, all abutters and owners of real estate must be notified by registered mail not less than seven days prior to the hearing at which the licensing authority acts on the license application.

A licensing authority may prescribe conditions or restrictions to a license.

Any such license granted hereunder shall be subject to such conditions and restrictions as may be prescribed in the license by the local licensing authority, which may include a condition that the license be exercised to such extent and within such period as may be fixed by such authority. <sup>2</sup>

A certificate of registration must be filed annually on or before April thirtieth by the owner/occupant of the land who holds (exercises) the license. This informs the licensing authority that the license is still being exercised, and the name of the person or entity exercising the license.

The Board of Fire Prevention Regulations has been granted the authority to exempt certain quantities of the articles (flammables, combustibles, and explosives), articulated in section 9 of Chapter 148, from licensing, and registration.<sup>3</sup> These exemptions may be found in the relevant sections of 527 CMR governing the articles to be stored.

Every license granted, and every certificate of registration filed under Section 13, is deemed to be granted or filed upon condition that if the land described in the license ceases to be used for the aforementioned uses, the holder of the license shall within three weeks after such cessation eliminate, in accordance with rules and regulations of the board, all hazardous conditions incident to cessation.

Massachusetts Code of Regulations 527 CMR 9.00, Tanks and Containers, uses the definitions "abandoned" and "out of service", to further categorize storage containers subject to cessation of use. As defined:

"Abandoned, in the case of underground storage tanks, shall mean out of service for a continuous period in excess of six months where a license from the licensing authority is required under the provisions of M.G.L. c.148, s. 13, and for a period in excess of 24 months in the case of any other underground storage facility or an aboveground tank of 10,000 gallons capacity or less; and in the case of aboveground storage of any fluid other than water, where a permit is required from the Marshal under provisions of M.G.L. c. 148, s. 37, it shall mean out of service for a continuous period in excess of 60 months and it has been deemed to be unsafe and a threat to the public safety by the head of the fire department and by the Department of Fire Services."

"Out of service, not in use in that no filling or withdrawal is occurring." 6

Once the tank is abandoned or out of service it must be removed. (With the exception of certain double wall underground storage tanks)

If it is determined that a fire or explosion hazard exists or is likely to exist as the result of the continued exercise of a license, the local fire chief may issue a cease and desist order.

The fire chief shall order reasonable measures to protect the safety of the public from the hazards of a fire or explosion. Any measures so ordered are at the expense of the license holder.

"When a fire or explosion hazard exists or is liable to exist due to the exercise of such license, the marshal or head of the fire department, shall issue an order to the licensee to cease and desist in the exercise of such license and said marshal or said head of the fire department shall direct that reasonable measures to insure safety to the public be undertaken at the expense of the holder of such license." The marshal or said head of the fire department shall direct that reasonable measures to insure safety to the public be undertaken at the expense of the holder of such license.

The first paragraph of section 13, Chapter 148, speaks of certain articles named in section 9 of Chapter 148, that are subject to regulation. Section 9, names the articles subject to regulation by license or permit.

"The board shall make rules and regulations for the keeping, storing, use, manufacture, sale, handling, transportation or other disposition of gunpowder, dynamite, crude petroleum or any of its products, or explosive or inflammable fluids or compounds, tablets, torpedoes or any explosives of a like nature, or any other explosives, fireworks, firecrackers, or any substance having such properties that it may spontaneously, or acting under the influence of any contiguous substance, or of any chemical or physical agency, ignite, or inflame or generate inflammable or explosive vapors or gases to a dangerous extent, and may prescribe the location, materials and construction of buildings to be used for any of the said purposes. Such rules and regulations shall require persons keeping, storing, using, selling, manufacturing, handling or transporting dynamite or other high explosives to make reports to the department in such particulars and in such detail that the quantity and location thereof will always be a matter of authentic record in the department..."

The first paragraph of section 9 of Chapter 148, states that the Board of Fire Prevention Regulations shall make rules and regulations for the keeping, storing, use, manufacture, sale, handling, transportation or other disposition of the articles name. The Board has made these Rules and Regulations with the Code of Massachusetts Regulations (CMR) 527 CMR 2.00 (Fireworks), 527 CMR 4.00 (Oil Burning Equipment) 527 CMR 6.00 (LP-gas), 527 CMR 9.00, (Tanks and Containers), 527 CMR 13.00 (Explosives) and 527 CMR 14.00, (Flammable Fluids, Solids, or Gases). These regulations allow the storage of certain quantities of materials to stored without a license, but subject to permit issued by the head of the fire department.

Regulation 527 CMR 14.03 section (2), requires a permit for the storage of any flammable fluid, solid or gas. This permit is to be obtained from the head of the fire department, as provided by M.G.L. c.148, s.10A and 23. The head of the fire department may restrict the quantities to be stored under the permit.

What this means is that a permit <u>in addition to a license</u>, a permit is required from the head of the fire department for the storage of flammable and combustible fluids. The head of the fire department may reduce the quantity of product allowed by permit but may not increase the quantity beyond that allowed by the regulation.

Exceptions to the permit process are granted to certain persons for the storage and use of and use of limited quantities of flammables, combustible. These exemptions may be found in the relevant sections of 527 CMR governing the articles to be stored.

#### Important Points

- A license for the storage of flammable or combustible fluids in quantities in excess of those allowed by regulation is granted by the local licensing authority after approval or disapproval by the head of the fire department and after a public hearing. A permit is granted by the head of the fire department.
- A license is not owned by an individual as a personal privilege. A license once exercised is a grant which
  runs with the land. The permanent record of a license is to be recorded and maintained by the city or town
  clerk.
- A permit from the head of the fire department is required in addition to a license for the storage of materials regulated under 527 CMR 14.00 (Flammable or Combustible Liquids, Flammable Solids or Flammable Gases.
- A certificate of registration is annually filed by the holder or occupant of licensed land to inform the city or town clerk to record (register) the license as still active and being exercised.
- A city or town may develop its own form for the actual license and registration. The form of the license and registration must contain, as a minimum, that information contained in Department of Fire Services Fire Prevention Forms, FP-2, License and FP-5, Registration respectively.
- A license, when exercised, is a grant running with the land. A parcel of land may only have one license for the storage of flammable or combustible fluids.
- If the conditions, capacities or restrictions authorized by a license are changed, an amended license must be obtained. A new application must be submitted to the local licensing authority, the head of the local fire department must approve or disapprove, and a public hearing must be held. If granted, the amended license supersedes and replaces the old license, and will show the aggregate total capacities allowed under the grant. The terms and conditions of the new license now prevail. The license must be plainly posted on the premises.
- A certificate of registration is the vehicle used by the license holder or occupant of licensed land to notify the city or town town clerk annually, before April thirtieth, that a license is in use and currently being exercised. If a registration is not applied for and issued, after three weeks, it may be viewed as cessation and cause for review of the license. A registration must be plainly posted on the premises.

<sup>&</sup>lt;sup>1</sup> 527 CMR 14.02

<sup>&</sup>lt;sup>2</sup> Massachusetts General Law, Chapter 148 § 13, Paragraph 3

<sup>&</sup>lt;sup>3</sup> Massachusetts General Law, Chapter 148 § 13, Sentence 2

<sup>&</sup>lt;sup>4</sup> Massachusetts General Law, Chapter 148 § 13, Paragraph 3

<sup>&</sup>lt;sup>5</sup> 527 CMR 9.02

<sup>&</sup>lt;sup>6</sup> 527 CMR 9.02

<sup>&</sup>lt;sup>7</sup> Massachusetts General Law, Chapter 148 § 13, Paragraph 6

<sup>8</sup> Massachusetts General Law, Chapter 148 § 9

(3) Removes shall mean that the official is no longer an inhabitant of the City of Gloucester and no longer has his or her primary residence and home in the City of Gloucester and is no longer qualified to be a registered voter of the city.

(Ord. of 7-11-89)

Secs. 7-3-7-14. Reserved.

#### ARTICLE II. WARDS AND VOTING PRECINCTS\*

\*Cross reference(s)--Ordinances describing the boundaries of the wards and precincts of the city saved from repeal, § 1-7(12).

State law reference(s)--Wards and precincts, M.G.L.A. c. 43, § 6, c. 54, § 1 et seq.

#### Sec. 7-15. Division of city into five wards.

In accordance with the authority vested in the city council by the general laws of the commonwealth and the Charter, the city is divided into five (5) wards.

(Code 1970, § 6-11)

Charter reference(s)--Authority to divide the city into five (5) wards, section 8-6.

#### Sec. 7-16. Boundaries of wards and precincts.

The boundaries of the various wards and precincts of the city shall be as shown on the records which are on file in the office of the city clerk.

(Code 1970, §§ 6-12--6-22)

#### Chapter 8 FIRE PREVENTION AND PROTECTION\*

\*Cross reference(s)--Powers and duties of city electrician relative to fire alarms and police signals systems, § 2-136; buildings and building regulations, Ch. 5; establishment of fire district, § 5-17; interference with fire alarm telegraph by moving of buildings, § 5-29; electrical regulations, § 5-40 et seq.; reward for information resulting in arrests and conviction of arsonists, § 14-9; alarm system, § 14-26 et seq.

State law reference(s)--Fires, fire departments and fire districts, M.G.L.A. c. 48; fire prevention, M.G.L.A. c. 148.

#### ARTICLE I. IN GENERAL

Sec. 8-1. License for storing inflammables; fees.

- (a) Upon application to the city council for a license to store inflammables, the applicant shall be responsible for payment of fees for advertising and postage for legal notices to all abutters.
- (b) Upon approval of the application to store inflammable, the license fee therefor shall be one hundred dollars (\$100.00).
- (c) The annual fee for renewal of certificate of registration shall be twenty-five dollars (\$25.00). /oc. >

(Ord. of 7-13-82, § 1)

State law Licenses for storage of inflammables, M.G.L.A. c. 148, § 13.

#### Sec. 8-2. Permit for transportation, storage and use of explosives.

No person shall transport, store or use any explosives named in M.G.L.A. c. 148, § 9, within the city without a permit from the fire chief, acting as the agent of the state fire marshal.

(Code 1970, § 9-1)

**State law reference(s)--**Municipal authority to regulate explosives, M.G.L.A. c. 148, § 9.

#### Sec. 8-3. Public display of fireworks after 10:30 p.m.

No public display of fireworks shall commence or continue after 10:30 p.m. The fire chief, at the time when any display is scheduled, may extend this period for not more than one (1) hour in the event of inclement weather or on account of conditions which he might deem to be an emergency.

(Code 1970, § 9-2)

Cross reference(s)-Amusements, Ch. 3.

**State law reference(s)--**Sale, possession, use, etc., of fireworks, M.G.L.A. c. 148, § 39; permits for display of fireworks, M.G.L.A. c. 148, § 39A.

#### Sec. 8-4. Annual homecoming ceremonial bonfire.

The city council authorizes the fire department to issue annually a ceremonial bonfire permit to the school department in accordance with Massachusetts General Law, Chapter 111, Section 142H and State Fire Regulation 527 CMR 10.23 (1). The permit shall be requested in writing by the Gloucester High School Student Council after obtaining permission from the school principal and athletic director. The written request shall be forwarded to the fire chief not later than the last day of September prior to the bonfire. The bonfire will be held as part of the high school homecoming events in mid-October of each year.

(Ord. No. 133-1998, § I, 11-10-98)

Secs. 8-5--8-14. Reserved.



10 NOV 29 PH 3:31

# Imagine What YuKan Do.

November 19, 2010

The Honorable Carolyn Kirk Gloucester City Hall 9 Dale Ave. Gloucester, MA 01930 RECEIVED

NOV 2 1 2010

Mayor's Office

Dear Mayor Kirk:

As a life-long resident of Massachusetts' north shore, I have a great appreciation for the charm of its communities and the unique character of its people. As a runner, I have traveled the quiet country roads, scenic coastlines and quaint downtown streets. I'm combining these two passions and am organizing an exciting new road race series on the north shore. I'm writing to ask if I may host a 1-mile road race in Gloucester on Saturday April 9, 2011 at 9:00am.

The running community is dedicated to fitness and an active, healthy lifestyle. Road racing attracts some of the most positive, outgoing, and energetic folks around. The road race will bring energy and excitement to Gloucester and help support the local economy.

I've prepared a well-organized race plan that will ensure a fun, festive, competitive and safe event for all participants. I've attached a course map for your review. The race will include:

- Police Detail
- Event Insurance
- Bathroom Facilities
- Professional Timing
- Course Marshals

- Ambulance & Medical Staff
- Water Station & Refreshments
- Clearly Marked Course
- Parking Attendant
- Clean-up Crew

I'm eager to support the local community and give back to those that give so much. The race will include fundraising efforts and portions or the race proceeds will be donated to The Open Door.

I'm excited about the race and eager to work with you to bring this event to Gloucester. I'll contact you soon to determine the appropriate next steps.

Sincerely,

Richard A. Morrell, Jr.

YuKan Sports, LLC

cc: Chief Michael Lane

Gloucester Police Department

197 Main St.

Gloucester, MA 01930



### Gloucester 1-Mile Road Race

The staging area will be assembled in the parking lot of the baseball field at the intersection of Western Avenue and Hough Avenue adjacent to Stage Fort Park. Registration tables, refreshments and vendor booths will be set-up along with the finish line.

## **Course Description**

Staring line is on Western Avenue just past Hough Avenue in front of the tennis courts

The race begins heading East on Western Avenue and runs past the Fisherman's statue

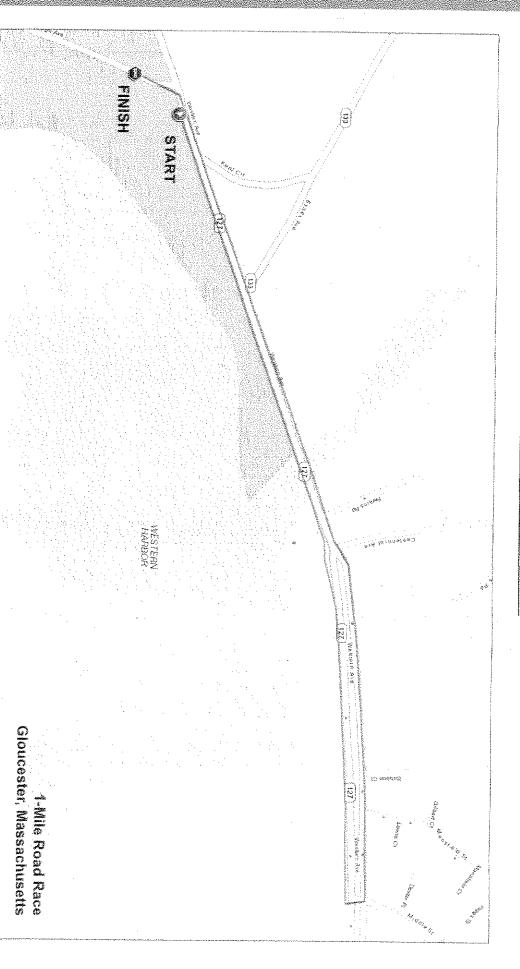
At Middle Street, the race turns left and briefly heads North as the course runs around the center island.

Next, the race turns left and heads West returning onto Western Avenue

The runners follow Western Avenue towards towards Stage Fort Park

The runners turn slight left crossing over Hough Avenue towards the Finish Line which is staged in the parking lot adjacent to the baseball field





YuKan Sports, LLC = P.O. Box 780 = Rockport, MA 01966 = 978-879-9007 = YuKanRun.com

#### Dana Jorgensson

To: City Council 2010

Cc: 'Linda Lowe, City Clerk'; Joanne Senos; Charlie Mahoney - Build

Subject: Reporting Problem Double Poles

Councilors: Councilor Ciolino, Chair of Planning & Development has asked me to forward the process by which problem double poles should be reported to the utilities. Should you have any comments regarding this new format below, please feel free to contact him. Thank you.

Dana C. Jorgensson Clerk of Committees

Planning & Development Policy for Reporting Problem Double Poles in the City of Gloucester by City Councilors:

To Report Problem Double Poles to the Utilities

- 1. When a constituient reports (or a Councilor finds) a problem double pole, the information needed would be the Pole number, and the closest address available to locate the pole.
- 2. Charles Mahoney, Electrical Inspector should then be informed of the pole information so that he can confirm who the "owner" of the pole would be: cmahoney@gloucester.ma-gov
- 3. When the Councilor has obtained that information, then the Councilor would email the appropriate representative of the utility. As of September 30, 2010 those representatives are known to be:

National Grid: John Upham, Coordinator-Community Relations/Economic Development NE: john.upham@us.ngrid.com

Verizon: Stanley Usovicz, Regional Director-External Affairs: <a href="mailto:stanley.j.usovicz@verizon.com">stanley.j.usovicz@verizon.com</a>
Comcast: Jane Lyman, Senior Manager-Government and Community Relations:
Jane Lyman@cable.comcast.com

#### Dana Jorgensson

From:

Charlie Mahoney [cmahoney@ci.gloucester.ma.us]

Sent:

Wednesday, December 01, 2010 2:02 PM

To:

'Dana Jorgensson'

Subject:

RE: Double Poles Reporting Procedure

Attachments: Scan0146.pdf

Dana , Step 2 can be eliminated , emailing the 3 representatives with pole information requesting the pole

be removed. Charlie

From: Dana Jorgensson [mailto:djorgensson@gloucester-ma.gov]

Sent: Wednesday, December 01, 2010 10:45 AM

To: 'Charlie Mahoney - Build'

**Cc:** 'Joseph Ciolino'; 'Greg Verga'; 'BobW' **Subject:** Double Poles Reporting Procedure

Charlie: Quite a while ago Councilor Ciolino had me email to you the double poles draft policy for reporting. The P&D Committee is looking to have your comments and/or revisions to it so that we may move forward on the matter. If you would be so kind as to forward that to me, I'll make sure any revisions are incorporated and sent to the Committee. Thank you so much.

Dana C. Jorgensson Clerk of Committees